

EXHIBIT 34



KENTUCKIANA
— COURT REPORTERS —

CASE NO. 20-CV-04768

JAMES FLETCHER JR.

V.

JEROME BOGUCKI, ET AL.

DEPONENT:

ANTHONY WOJCIK

DATE:

June 20, 2024



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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 JUDGE ANDREA WOOD
5 MAGISTRATE JUDGE MARIA VALDEZ
6 CASE NO. 20-CV-04768
7

8 JAMES FLETCHER JR.,
9 Plaintiff
10

11 V.
12

13 JEROME BOGUCKI, ANTHONY
14 NORADIN, RAYMOND SCHALK,
15 ANTHONY WOJCIK, UNKNOWN CITY
16 OF CHICAGO POLICE OFFICERS, AND THE
17 CITY OF CHICAGO,
18 Defendants
19
20
21
22

23 DEPONENT: ANTHONY WOJCIK
24 DATE: JUNE 20, 2024
25 REPORTER: CARLI GROSSMAN

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(Appeared via videoconference)

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(Appeared via videoconference)

INDEX

	Page
PROCEEDINGS	7
DIRECT EXAMINATION BY MR. SWAMINATHAN	9

EXHIBITS

Exhibit	Page
1 - City JF 190 - Request for Identification Photos	63
2 - City JF 98, 99 - Arrest Report	67
3 - City JF 62, 66-85 - Juvenile Arrest Report	76
4 - City JF 86, 96 - Criminal Record Search Summary	84
5 - City JF 97 - Stop Order/Cancellation Request	91
6 - City JF 52 - General Progress Report by Jerome Bogucki	95
7 - City JF 134, 135 - Investigative Alert	113
8 - City JF 129, 130 - Active Investigative Alert for Emmett Wade	127
9 - City JF 179-182 - General Progress Report by Raymond Schalk and Jerome Bogucki	131
10 - City JF 140-147 - Cleared Open Report from Sorrell Murder Investigation	135
11 - City JF 4544 - Record of Arrest and Prosecution (Identification Section)	156
12 - Illinois Department of Corrections Photo Array - B1563-1569	166

EXHIBITS (CONTINUED)

Exhibit	Page
13 - Second Version of Illinois Department of Correction Photo Array - B1563-1569	167
14 - City JF 47-51 - Original Supplementary Report by Detective Michael Fleming	169
15 - City JF 153-159 - Line Up Report/Case Supplementary Report	189
16 - City JF 4566-4569 - Line Up Photographs	193
17 - City JF 191-198 - Series of Arrest Photographs	195
18 - Complaint Register 211634	207
19 - City JF 6600-6640 - Summary Report from December 2017	234

STIPULATION

The deposition of ANTHONY WOJCIK was taken at KENTUCKIANA COURT REPORTERS, 730 WEST MAIN STREET, SUITE 101, LOUISVILLE, KENTUCKY 40202, via videoconference in which all participants attended remotely, on THURSDAY the 20th day of JUNE 2024 at 10:55 a.m. (CT); said deposition was taken pursuant to the FEDERAL Rules of Civil Procedure. The oath in this matter was sworn remotely pursuant to FRCP 30.

It is agreed that CARLI GROSSMAN, being a Notary Public and Digital Reporter, may swear the witness and that the reading and signing of the completed transcript by the witness is not waived.

PROCEEDINGS

THE REPORTER: All right. We are on record. My name is Carli Grossman. I'm the online video technician and court reporter today, representing Kentuckiana Court Reporters located at 710 [sic] West Main Street, Louisville, Kentucky 40202. Today is the 20th day of June 2024. The time is 11:55 a.m. We are convened by videoconference today to take the deposition of Anthony Wojcik in the matter of James Fletcher, Jr., versus Jerome Bogucki, Anthony Noradin, Raymond Schalk, Anthony Wojcik, Unknown City of Chicago Police Officers, and the City of Chicago, pending in the District Court for the Northern District of Illinois, case number 20-CV-04-768. Will everyone but the witness please state your appearance, how you are attending, and the location you are attending from, starting with Plaintiff's counsel?

MR. SWAMINATHAN: Good morning. This is Anand Swaminathan for Plaintiff James Fletcher, appearing via Zoom from Chicago.

MR. STEFANICH: Brian Stefanich, appearing via Zoom in Chicago. I represent the individual defendants in this case. And I believe there is an agreement not to have this deposition

1 recorded, so -- it looks like it is being

2 recorded, so we object to that if it is.

3 MR. SWAMINATHAN: Yeah. You can -- we can --

4 Carli, we can take off the recording. I agreed

5 to that.

6 THE REPORTER: Okay.

7 MR. STEFANICH: Thanks.

8 THE REPORTER: I do like to have the audio -- the

9 Zoom audio recorded, just because it's a better

10 audio, but we won't have it noticed as a

11 recording if that's all right.

12 MR. SWAMINATHAN: That's fine with me.

13 THE REPORTER: Mr. Stefanich, is that okay?

14 MR. STEFANICH: Yes, ma'am. Yes.

15 THE REPORTER: Okay.

16 MS. HARRIS: And Dhaviella Harris on behalf of

17 the City of Chicago, appearing remotely from

18 Chicago.

19 THE REPORTER: All right. This is where I

20 typically check the witness's ID, but the

21 attorneys stipulated it off the record that they

22 would like to skip this. Counsel, is that

23 correct?

24 MR. STEFANICH: Yeah. We would stipulate that

25 this is the defendant, Anthony Wojcik.

MR. SWAMINATHAN: So stipulated by Plaintiff.

THE REPORTER: Do all parties agree that the witness is, in fact, Anthony Wojcik?

MR. STEFANICH: Agreed.

MR. SWAMINATHAN: Yes, so stipulated.

THE REPORTER: Okay. Mr. Wojcik, will you please raise your right hand?

Do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

THE REPORTER: Counsel, you may begin.

DIRECT EXAMINATION

BY MR. SWAMINATHAN:

Q. All right. Mr. Wojcik, can you please state and spell your name for the record?

A. It's Anthony Wojcik, A-N-T-H-O-N-Y W-O-J-C-I-K.

MR. STEFANICH: Sorry. Sorry. I mean, just to clarify it, I think the court reporter -- I don't know if -- where she is, actually, but I think she said the start time was 11:55, but it was 10:55 Chicago time, so just to clarify that. Thank you.

THE REPORTER: I apologize. 11:55 Eastern Time.

MR. STEFANICH: Yes.

BY MR. SWAMINATHAN:

Q. Okay. Good morning, Mr. Wojcik. I know we had -- we had spent a little time together just a couple days ago, --

A. That's right.

Q. -- so we have gone through the ground rules for a deposition, but I just want to do that again very briefly just so we have it on the record here today.

Have you given a deposition before?

A. Yes.

Q. You said something in the order of ten to 20 times, potentially?

A. Correct.

Q. Okay. Got it. Similar to those prior depositions you've given, this is the same thing. This is a question-and-answer session. You'll be asked questions, and you'll answer them to the best of your ability. And Madam Court Reporter will be taking down the questions and answers faithfully, so for that purpose, there are a couple of things you have to have in mind. One is, we can't talk at the same time because she can't write that down, understood?

A. Yes.

Q. Okay. So many times in the deposition, you'll

1 know where I'm going. Please let me finish my question
2 before you answer. I think -- I don't think we had many
3 issues with that on Tuesday, but again, continue to make
4 sure you let me finish my question, even if you know
5 where I'm going before you answer, understood?

6 A. Yes.

7 Q. Similarly, if I mistakenly believe you
8 finished your answer and I'm cutting you off, please let
9 me know, and I will let you finish your answer,
10 understood?

11 A. Yes.

12 Q. Okay. No nods or uh-huhs. We need verbal
13 answers for the court reporter, okay?

14 A. Yes.

15 Q. If you don't understand my question, please
16 tell me and I will rephrase my question, fair?

17 A. That's fair.

18 Q. And similarly, if you answer my question, I'll
19 assume you understood my question; is that fair?

20 A. That's fair.

21 Q. Okay. If you need to take a break at any
22 point, we can do that. Just answer any pending
23 question, and then we'll take a break, okay?

24 A. Yes.

25 Q. Okay. Last set of questions I want to just

1 ask you preliminarily. Are you -- this is a yes-no
2 question because I don't want to get into your medical
3 history: Do you have any medical conditions that would
4 prevent you from being able to understand my questions
5 and answer them truthfully today?

6 A. No, not that I'm aware.

7 Q. And do you -- are you taking any medications
8 currently that would prevent you from being able to
9 understand my questions and answer them truthfully?

10 A. I'm taking several medications. I'm not sure
11 of all the effects of them, but I don't believe they
12 will interfere with my ability to answer your questions.

13 Q. Okay. And have -- has any doctor told you
14 that the medications you're taking would prevent you
15 from being able to understand questions and answer them
16 truthfully?

17 A. Not that I recall.

18 Q. All right. What did you do to prepare for
19 today's deposition?

20 A. I reviewed a closing supplementary report and
21 a lineup report that I was the approving supervisor on.

22 Q. Were you the approving supervisor on both the
23 closing supp and the lineup report?

24 A. That's correct.

25 Q. Did you review any other documents in

1 preparation for today's deposition?

2 A. No.

3 Q. Did you review any GPRs?

4 A. No.

5 Q. Did you review any transcripts of trial
6 testimony or deposition testimony?

7 A. No, I have not.

8 Q. And did you review any photos or pictures?

9 A. No.

10 Q. Did you review any information from the
11 criminal trial of Mr. James Fletcher?

12 A. No, I have not.

13 Q. And did you review any of the evidence or
14 testimony from the post-conviction proceedings of
15 Mr. Fletcher that resulted in his exoneration?

16 A. No, I have not.

17 Q. Okay. Did you have meetings with Counsel in
18 preparation for today's deposition?

19 A. I only spoke to him on the phone, briefly, and
20 probably in total, less than one hour, maybe in three
21 conversations over the years. And today was the first
22 time that I actually met Brian.

23 Q. So you said you had three conversations over
24 the last year or more; is that right?

25 A. Over the last years, there was probably three

1 conversations where we spoke anything in regards to the
2 case, and those were very brief. It was never anything
3 --

4 Q. Okay. And the -- oh, I'm sorry, go ahead.

5 A. It was very short, each one. And I don't know
6 how many times -- I might have spoke to him on the phone
7 where he was calling me to set up a -- you know, the
8 deposition or whatever. I -- I couldn't tell you how
9 many times because I --

10 Q. Okay. And I don't want you to go into the
11 details of those.

12 A. -- never met him in-person. Never went to his
13 office or anything like that.

14 Q. Okay. And I don't want you to go into the
15 details of those conversations. So you had -- separate
16 and apart from those sort of short conversations,
17 scheduling, other kinds of things, you're saying you had
18 one conversation with Counsel, which was specifically
19 for purposes of preparing for today's deposition; is
20 that right?

21 MR. STEFANICH: Objection. Form. Misstates the
22 testimony. You can answer.

23 THE WITNESS: It was -- we didn't -- the call
24 wasn't for that, but during the call, we might
25 have spoke about the -- the -- I had some

questions about the --

MR. STEFANICH: I'm going to object --

THE WITNESS: I'm sorry to -- I'm sorry.

MR. STEFANICH: -- and instruct him not to answer

--

THE WITNESS: Okay.

MR. STEFANICH: -- just the way you're --

BY MR. SWAMINATHAN:

Q. Let me ask you a different question. You indicated that you -- that your meetings with Counsel in preparation for today's deposition were exclusively by phone, correct?

A. Yes.

MR. STEFANICH: Objection. Form. Misstates his testimony.

THE WITNESS: Okay.

MR. STEFANICH: You can answer.

THE WITNESS: The calls themselves weren't for a meeting to prepare. The -- the times I talked about the case in general with him over the years was very short and maybe more than one conversation or whatever, one or two conversations over the phone, so I never really went over the case with him or he never did with me.

MR. STEFANICH: Objection.

THE WITNESS: I'm sorry.

BY MR. SWAMINATHAN:

Q. Okay. Let me ask you a different -- let me ask a different question. In preparation for today's deposition, did you have any in-person meetings with Counsel today or in the last few months?

A. No. Today was the first day I met Counsel.

Q. Okay. And did you meet today in preparation for today's deposition?

A. No. I got here, and it was a few minutes after 10:00, and just sat down waiting to start.

Q. Okay. And then did you have any phone or Zoom meetings with Counsel in preparation for today's deposition?

MR. STEFANICH: Objection. Asked and answered.

Can answer again.

THE WITNESS: No.

BY MR. SWAMINATHAN:

Q. Okay. Did you -- so you indicated that you had reviewed several documents, the closing supp and the lineup report; how did you get those documents?

A. I had received those from Counsel.

Q. And then did you receive a copy of the investigative file in this case?

1 A. Yes.

2 Q. So you had a copy of the complete
3 investigative file?

4 A. I don't know because I didn't review that. I
5 believe that's what was sent, but I never reviewed the
6 whole file, so I couldn't say with certainty. All I
7 reviewed was the closing supp and the lineup supp that I
8 approved as a sergeant, so...

9 Q. But you went through the investigative file to
10 find those documents; is that right?

11 A. Correct.

12 Q. So you went through the entire file, but you
13 were looking -- it sounds like you focused on just a
14 couple of documents; is that right?

15 A. That's correct.

16 Q. Okay. And did you -- so you had an
17 opportunity to see what else was in the investigative
18 file; is that fair?

19 A. I wouldn't say that, no. I was just searching
20 out the closing supp and the lineup supp.

21 Q. In your recent deposition in the Jackson case,
22 you indicated that you had reviewed the entire
23 investigative file in preparation for the deposition; is
24 that fair?

25 A. I don't recall if I said the entire file or

1 not, but I --

2 Q. But you had indicated you had gone through the
3 entire file and focused on some number of documents; is
4 that fair?

5 A. I don't know what I said in that regards, --

6 Q. So --

7 A. -- but I did focus on certain documents
8 though, meaning, just like in this case, it was the
9 closing supplementary report on that one that -- that I
10 had approved on that one also.

11 Q. Any reasons you took a different approach in
12 this case, in terms of focusing on just a few documents?

13 MR. STEFANICH: Objection. Calls for
14 attorney-client privilege. Instruct him not to
15 answer.

16 BY MR. SWAMINATHAN:

17 Q. Okay. You'll follow Counsel's advice and not
18 answer that question, sir?

19 A. Yes.

20 Q. Okay. Other than the investigative file, did
21 you receive any other documents from -- or files from
22 Counsel?

23 A. Not that I recall at this time, no.

24 Q. Okay. We don't need to go back through your
25 background. I have kept my notes on your history

1 through the Chicago Police Department, so we can skip
2 that step. The only thing I wanted to just be reminded
3 of is when do you say you started in the police
4 department? Did you say 1986?

5 A. 13 October 1986, correct.

6 Q. Okay. October 13th, '86?

7 A. Correct.

8 Q. Okay. At -- what was the first point in time
9 at which you got involved in the Sorrell homicide
10 investigation?

11 A. I have no recollection.

12 Q. Can you say what year it was?

13 A. No. I have no recollection.

14 Q. Were you -- what -- yeah, what position were
15 you working in, in the Chicago Police Department, when
16 you joined the Sorrell homicide investigation?

17 MR. STEFANICH: Objection. Form. Foundation.

18 You can answer.

19 THE WITNESS: I have no recollection other than
20 what I saw in the documents, which was -- I don't
21 remember the exact date, but it would've been the
22 date that I approved those reports.

23 BY MR. SWAMINATHAN:

24 Q. Okay. And so on the date that you approved
25 the reports, that would've been in and around 2002,

1 correct?

2 A. If that's the date on the reports, correct.

3 Q. Okay. And at that time, you were a sergeant
4 at Area 5; is that right?

5 A. That's correct.

6 Q. Okay. And at that time, were you working in
7 the Cold Case Unit?

8 A. Not that I recall. I was a sergeant at Area
9 5.

10 Q. Okay. And so is it your -- had you -- at the
11 -- as of -- at the time of 2002, had you worked in the
12 Cold Case Unit yet as a supervisor, or was that
13 something you were -- that would happen later on?

14 A. That would've happened later.

15 Q. Okay. And when you worked on -- when you
16 approved reports in this case, some of those reports
17 that were being submitted to you were reports being
18 submitted by Detective Bogucki and Schalk, fair?

19 A. That's correct.

20 Q. Were Mr. Bogucki and Schalk, when you were
21 approving these reports in 2002, were they members of
22 the Cold Case Unit?

23 MR. STEFANICH: Objection. Foundation. You can
24 answer.

25 THE WITNESS: No. They were detectives at Area

5.

BY MR. SWAMINATHAN:

Q. Okay. And so what was your understanding of why, in 2002, as detectives, they were reinvestigating - or participating in an investigation of a 1990 case?

A. That was part of their function as detectives at Area 5, to investigate homicides or whatever other handouts they may have received of crimes that occurred in Area 5.

Q. And is there any practice or policy that once a case becomes so old, it's sort of closed administratively within the detective division area, or the -- can the case just stay open, sort of, into perpetuity?

MR. STEFANICH: Objection. Form. Foundation. You can answer.

THE WITNESS: Well, homicides cannot be closed. They remain open in perpetuity because they're homicides, and there is no statute of limitations on the -- the offense, charging anybody for that offense. So other crimes, like misdemeanors or others, if they sat for that long of a period of time and went beyond the statute, they could be closed administratively, but not homicides.

BY MR. SWAMINATHAN:

1 Q. And is there a point in time when homicide
2 cases will be transferred to a cold case unit?

3 A. No, it's not a -- what -- no, it's not by
4 time. What occurs -- and there is no reason that any
5 detective at Area 5 can't pick a case going back to the
6 1920s, if they wanted, and work on it. I was a sergeant
7 later at the Cold Case Unit, like you had asked earlier.
8 The cases came there either -- mostly at our initiation.
9 Sometimes we would get a call from the public, you know,
10 my -- my father, my uncle, my -- my, you know, wife was
11 killed X number of years ago, I -- case remains open.
12 We would check it out if it was open. We would contact
13 the area, speak to them. And if nobody was working on
14 it at that time or wasn't active, then we would initiate
15 a cold case investigation for that. That was one way
16 they would come in. Other ways, like, for example, we
17 had received a grant on DNA -- using DNA in solving
18 cases. And based on that, we did an analysis of all the
19 open murders in the city in all the areas. And of the
20 5,500 that were open, we tried to research and narrow it
21 down to ones that -- where there was a potential of DNA
22 evidence. And -- and we went through our filters to
23 narrow it down. We then requested copies of files from
24 the area. We never got the -- or the investigative
25 files and removed the files from the area. We would

1 just get copies to initiate a cold case investigation.
2 But for the area, God bless anybody that wanted to work
3 on those old cases. You know, those were murders, and
4 they deserved to be worked on, so if anybody wanted to
5 go back and pick up on them, God bless them.

6 Q. In the Cold Case Unit when you were
7 supervising that group, that was at some point later in
8 the 2000s; is that right?

9 A. Approximately. Yes, it would've been because
10 -- yeah, it would've been later in the 2000s, correct.

11 Q. Okay. Because you ended up becoming a
12 sergeant by 2008, so it would've been before 2008 that
13 you were working in the Cold Case Unit?

14 A. Right. That's correct. Right.

15 Q. Okay. In the Cold Case Unit, obviously, you
16 mentioned that there was some -- there was a lot of
17 DNA-based work in that unit, especially after you got
18 the grant, correct?

19 A. Well, that wasn't the only thing we did.
20 Because of the grant, we did approach cases with DNA and
21 that, but that wasn't the only case, nor I -- would I
22 say was it the greater percentage of cases that we
23 worked on. Not all of them had DNA. But yes, we did
24 try to -- based on the grant, we did try to -- try to --
25 try to find those cases to work on.

1 Q. What were the other emphases in the Cold Case
2 Unit? Obviously, DNA was one. What were other, you
3 know, areas of focus for the Cold Case Unit in terms of
4 how to go back and solve cases?

5 A. Well, our mission was to work old, unresolved
6 homicides that were not being currently worked by the
7 areas, you know? So again, a detective working in Cold
8 Case can find a case on his own, or he might remember a
9 case. And back when I was Area 2, I started working on
10 a case, and it never got resolved. And he'd just start
11 working on that, you know, because he had some knowledge
12 of it. Sometimes retired detectives would contact us
13 and -- because once the -- you never -- Cold Case Unit
14 wasn't always there, and I don't know exactly when it
15 got formed. There was a lieutenant in there prior to
16 the lieutenant that asked me to go there, and I don't
17 know how many years they were there. But we -- we would
18 get calls sometimes from retired detectives that had
19 worked a case, and it still bothered them that that case
20 was unresolved. Or maybe they had an idea of who the
21 suspect was back then, but there was no charges, and
22 they thought maybe via, you know, speaking to witnesses
23 now, years later, we might get more information. Or, in
24 the case of DNA, we might be reexamining some of the
25 evidence and may be able to find some evidence that

1 would lead to -- to the suspect. So there's many ways
2 to get them and many ways to initiate a -- a cold case
3 investigation.

4 Q. And the cold case -- so when detectives were
5 initiating cold case investigations, other than it being
6 an old case they had worked on or that a detective or
7 colleague said, hey, I want to follow-up on, was there
8 also a process of, like, going through old files, old,
9 unsolved cases and saying, "All right. This is a good
10 candidate for cold case investigation versus others"?

11 A. Well, that -- I don't remember specific cases,
12 but that was part of it. And some of it was where, once
13 the unit was formed, we would periodically go to areas
14 and sometimes talk to the detectives. On occasion, I
15 went to roll calls and reminded them, hey, look, we're
16 out there. If you guys got any cases that are old and
17 because of the -- like, for example, Area 2 was busy.
18 For them to look back at old cases was near impossible
19 just by the volume of what they had coming in. So if
20 there are any old cases that you think you'd like some -
21 - some fresh eyes on or somebody to actually take a look
22 on because you can't get back to them. And same thing
23 with the lieutenants and the commanders there, we let
24 them be aware. So many ways that we got cases. And
25 sometimes a detective would call and say, hey, man, take

1 a look at this case, or the commander would forward a --
2 a -- not -- not the file itself, but forward information
3 on cases. Then we would go to the areas, have that file
4 copied, reexamine evidence that might inventoried to
5 find out where it was. You know, is it in bulk storage?
6 Is it still at ERPS? Is there potential for reexamining
7 it now with current technology and stuff? So it was a
8 lot involved, but basically, again, we were looking at
9 old murders. And then on occasion, depending on the
10 volume of work, there were times where we were asked to
11 go out to the - - a scene. Rare, but we were asked to
12 go out to the scenes of a fresh homicide because there
13 was just nobody available.

14 **Q. Manpower.**

15 A. We -- we would run out and take care of that.
16 And then on occasion, also, other cases, like old --
17 there was times we investigated old police-related
18 shooting incidents and -- and -- and such, so it may be
19 --

20 **Q. So when you were supervising -- oh, go ahead.**

21 A. -- cold case homicides, but again, if the
22 chief of detectives wanted us to look at another case or
23 some other case, or there was some issue that they
24 wanted it reinvestigated, we had some of those too where
25 we had re-looked at cases that were already -- where

1 there already was some conclusion to.

2 Q. In -- as a sergeant in that unit -- well,
3 strike that. The -- one of the things it sounds like -
4 - if I'm understanding you correctly, one of the
5 emphases was, when you're going back to the units or the
6 areas and looking at some of the older cases that could
7 be potential candidates, one area of emphasis, it sounds
8 like, was cases where there might be physical evidence
9 that could be subjected to, you know, more advanced
10 scientific testing, whether it's DNA or other forensic
11 types of testing; is that fair?

12 A. One of them, yeah. It didn't just -- that
13 wasn't conclusive, though, the only -- I mean, there was
14 times where sometimes you revisited a case because, like
15 I said, maybe a family member called into the area,
16 maybe another detective remembered it. And sometimes
17 people that were not cooperative at the time of the
18 incident, would -- would be entirely cooperative now.
19 Like, for example, a -- a husband and -- and wife, and
20 they had a -- a -- some kind of an incident, and the
21 wife was shielding the husband, you know, giving him an
22 alibi. Maybe now they're divorced. Maybe now there's
23 other things. Maybe now -- sometimes the offender has
24 passed away, and then the -- the person is not fearful
25 anymore and they will tell you. So no -- you -- you can

1 come up with all kind of reasons why, so we weren't just
2 looking for ones that had evidence. You know, again, if
3 a family member called and -- or a detective called and,
4 yeah, we'll take a look at it. By taking a look at it,
5 we would see that, okay, this was X number of years ago.
6 This witness was never found back then. Maybe we can
7 find them now, or let's go re-interview, you know? Or
8 sometimes you would just find out that the main suspect
9 back then was now deceased, and maybe going back and
10 talking to people, you would -- would find out, okay,
11 yeah, I didn't say my -- I knew my husband, and I --
12 yeah, I said he was at home that night, but he wasn't.
13 He came back, was frantic, threw his clothes into the
14 wash, had me wash his clothes, you know? So it's not
15 just, you know, looking for DNA or -- or other evidence.
16 It's -- there's a myriad of things you're looking for,
17 and if -- if you could find one that you can do
18 something with, or you believe you can, or you're going
19 to give a shot at, then we -- we would do so.

20 **Q. Anything that was done differently in that**
21 **unit, given that you're -- these are cases where a lot**
22 **of time has passed since the underlying crime, you know,**
23 **witness memories may be affected, those kinds of things?**
24 **Anything that was done differently?**

25 **A. What do you mean by --**

MR. STEFANICH: Objection to form. Go ahead.

THE WITNESS: I'm sorry. I'm kind of confused
what you mean by differently. Differently from -

-

BY MR. SWAMINATHAN:

Q. Yeah. In terms of how you interview witnesses, how you interview suspects, you know, those kinds of things. Anything different about how those cases were approached in the Cold Case Unit rather than if it was just a regular active investigation?

A. No. You would still follow -- you'd formulate a plan of -- of how you're going to proceed, but it was the same way. Interviewing was done the same. Submitting evidence was the same. We had a more direct way of getting evidence worked up due to the grant because now it was set up with the state lab, you know, based -- we had a federal grant where the state lab was going to be getting paid off the federal grant, so it was some differences, but the -- working the case was all the same. It was, you know -- it was --

Q. And what was done to -- was there anything that was done to account for the, you know, concerns about, you know, witness memory being, you know -- fading over time?

MR. STEFANICH: Objection. Form. You can answer

the question.

THE WITNESS: Nothing different than working an old case from, you know, if you -- if I was in the area or detectives were in the area, there was no -- nothing different with that. You know, again, that's - - every circumstance is different. Every person is different and -- you know, as far as whether or not their -- their memory fades over time.

BY MR. SWAMINATHAN:

Q. But was there an understanding of within that unit about what you do if you have, you know, you have - - and a lot of times -- I mean, let's start with the basics. Was there some general understanding that, you know, when -- with the passage of time, memory fades and can change?

MR. STEFANICH: Objection. Form. You can answer.

THE WITNESS: Well, there was no discussion of that. There was no looking at it that way. And the reality is that, with the passage of time, sometimes memories come into it. And I believe I mentioned these Tuesday when I talked to you. You have cases where, like, for example, a young man was abused as -- as -- in his younger ages,

1 and he might be in his 30s or 40s, based on
2 having suppressed that or whatever, he may then
3 remember it and tell you about it, and this has
4 happened, you know, numerous times, and
5 corroborated then by -- because he now remembers
6 that, then you find out who the offender was
7 suspect, and then the -- the individual admits to
8 it. So now the fact that all those years he
9 didn't remember or recall, talk about that
10 incident, doesn't necessarily mean that over time
11 your memory fades. So if you could take that
12 extreme, where you have almost no memory of an
13 incident occurring, then years later you have,
14 let's just go to the extreme and say, a full
15 memory of what occurred, anything in between can
16 happen. Some people may have a photographic
17 memory. They may remember an offender. Some
18 people, based on having had a relationship or
19 having seen that person before, you know, like a
20 -- like a neighbor may say, yeah, it's the guy
21 who used to live for -- he lived next door for
22 six months. Well, if they see him on a -- on a
23 basis, you know, for six months, then yeah, 15,
24 20 years, they have a better chance of
25 identifying or whatever. Same thing with a

1 crime. If the person is in a -- involved with
2 that, like sexual assault, where a woman, though
3 traumatized, that face may be ingrained in her
4 forever, and her memory would occur. It could be
5 the opposite, you know, where because of the
6 trauma, they can't remember. But you can't say as
7 a given or as a -- a -- a -- a factual, that all
8 memory fades over time. Some memory will get
9 better. Some memory, people will lose. You have
10 people that five minutes after the crime, they
11 couldn't identify anybody. You have people that
12 are traumatized five minutes after the crime,
13 they're in somewhat of a shock, but doesn't mean
14 a week later when they settle down and are asked
15 that they can't make an identification either.
16 So it's a myriad of things. And like I had said
17 the other day, our job would then to be present
18 it and, as is, if somebody makes an
19 identification years later, we present that, that
20 an identification was made. Whether or not the
21 judge or a jury or some trier of fact might, you
22 know, accept that or -- or proceed with that,
23 that's their decision, and everybody's different.
24 You know, somebody can explain why they didn't --
25 you know, didn't remember. Sometimes it's not

1 memory. Sometimes it's fear, so sometimes
2 somebody will tell you, no, I didn't see
3 anything. Years later, they're moved out of the
4 neighborhood. They're no longer have to walk by
5 these people every day or these gang bangers
6 every day, or they don't have kids that have to
7 go to school by these gang bangers every day.
8 And now that they feel safe, they will then tell
9 you. It doesn't mean that they're -- what
10 they're saying then is false. It just means that
11 they have a reason, which they can explain, why
12 they are now making that identification. So you
13 have to look at every situation differently and -
14 - and proceed with -- with that and present it
15 going forward.

16 BY MR. SWAMINATHAN:

17 Q. Did you, as a detective -- at the time that
18 you were a detective or as a sergeant supervising
19 detectives, did you ever operate with a general
20 understanding, subject to exceptions, that witness
21 memories fade over time?

22 A. Well, I can only base that on -- I -- I mean,
23 that would be a general way of looking at things. But
24 again, it's all individual, you know? You -- you can't
25 say, oh -- you know, approach everything and say, well,

1 it's ten years from now, there's, you know -- we're not
2 going to even bother with this case because that witness
3 is not going to be able to identify. Again --

4 Q. Do you -- putting aside identifications, just
5 in terms of witness's memory of events, are you saying
6 you generally agree with the idea that memory fades over
7 time, subject to exceptions, or are you saying you
8 disagree with that?

9 A. It depends on the person, again. So I guess
10 if you want to say that in the greater percentage of
11 time, does memory fade over time? I'm not a scientist.
12 I'm not a -- a biologist or whatever, whoever would
13 make, you know, that. But that would be a -- probably
14 be just a general belief. But again, there are so many
15 times, just like the -- the young man that was sexually
16 assaulted by a priest, you know? He -- he -- he went
17 from maybe what was zero memory to full memory, so --
18 again, that's an extreme, and you can have anything in
19 between there, regarding not just identification, but
20 memories of the offense itself. You know, it's -- it's
21 like human nature. Like, sometimes you get together
22 with your friends and you'll be talking about an
23 incident that happened back in high school, and I'll
24 remember, oh yeah, remember when you, whatever, you
25 pulled that fire alarm? No, no, no. That wasn't me.

1 Remember -- I was there, but that was -- oh yeah, that's
2 right, it was Frankie. So everybody has that. And now
3 in conversing about it or maybe looking about it, it
4 might spur your memory. It can happen to people also
5 about an offense. They may be driving, you know, down
6 the street and see something or hear something that, you
7 know, refreshes their memory about something that
8 occurred. It could be a million -- you know, a bunch of
9 things. So human nature is a funny thing and -- and,
10 you know, it happens. It does happen.

11 Q. Did you get any training at the time you were
12 a detective or a supervisor of detectives on the
13 reliability of memory over time?

14 A. Not that I recall. Not specific training in
15 that regards, no.

16 Q. And do you recall getting -- strike that. Did
17 you get any training from the police department on the
18 reliability of identification procedures over the
19 passage of time?

20 A. Not that I can specifically recall.

21 Q. Did you get any training from the police
22 department on issues with the reliability of
23 identification procedures as a general matter? In other
24 words -- strike that. So putting aside the passage of
25 time, just as a general matter, were you ever trained or

1 taught about the issues with the reliability of
2 eyewitnesses' abilities to conduct -- to make
3 identifications of witnesses or suspects?

4 MR. STEFANICH: Objection. Form. You can
5 answer.

6 THE WITNESS: I can't recall specifically as I'm
7 sitting here right now.

8 BY MR. SWAMINATHAN:

9 Q. Do you recall generally getting any training
10 about, hey, you know, you have to be careful, witnesses
11 are often unreliable in their ability to make
12 identifications?

13 MR. STEFANICH: Objection. Form. You can
14 answer.

15 THE WITNESS: I don't recall specifically getting
16 training about that. I know that was a big buzz
17 out in your profession, where that was being
18 stated, and witness identification were being
19 attacked on various grounds. But whether or not
20 I got specific training, I couldn't state as I'm
21 sitting here right now whether I did or not.

22 BY MR. SWAMINATHAN:

23 Q. And just to clarify, when you said you got --
24 you had an understanding it -- from my world, are you
25 saying that was -- you did get training about what was

1 going on in the world of civil rights lawyering and
2 criminal justice lawyering about identifications? Or
3 are you saying -- you're just -- you're saying that's
4 separate apart from training?

5 A. No, I'm -- just from hearing -- you know, it's
6 my profession also. You know, we're -- we're involved
7 in those things, but it wasn't, like, a formal training,
8 but just in hearing, you know, challenges, TV news, you
9 know, trying to change the system of photo arrays, how
10 it's done. And it did occur because at some point we
11 went with this blind administrator and all that, as
12 opposed to somebody involved in the case showing photos
13 or running a lineup. We were charged with then having
14 somebody not involved in the case, who didn't even know
15 who the suspect was or was not in that lineup run that
16 or -- or run the photo arrays. So I -- I'm aware of it,
17 and -- and if you're talking about the training leading
18 to the blind administrator, yes, I'm aware of that. But
19 I never -- you know, I -- I don't recall specifically
20 anybody talking about, you know, you can't trust that --
21 I -- I think the department was -- or the city or
22 department or whoever decided to go with the blind
23 administrator was acting as a result of -- of things
24 that were happening out in the -- the legal world.

25 Q. And those -- that change to blind

1 administrators happened well after 2002, correct?

2 A. To the best of my recollection, correct.

3 Q. Okay. And prior to the change to going to
4 blind administrators, are you aware of any training
5 about any scientific or other indications about
6 unreliability of eyewitness identifications?

7 A. Not that I'm aware of, no.

8 Q. Within the police department, as a detective
9 conducting and -- conducting investigations, or as a
10 supervisor of those investigations, did you ever have
11 any concerns about the reliability of eyewitness
12 identifications?

13 A. That's a hard question to answer. You -- on
14 specific -- yeah, again, on certain circumstances. I --
15 I think I explained to you yesterday cases where, like,
16 one gang would come in, and they had shot their own gang
17 member in the back of the head during a drive-by, but
18 were coming in trying to say it was another one, it was
19 the Latin Kings. Well, in that individual thing, after
20 a while when you start hearing that, well, it was close
21 range fire or closer range fire in the back of the head,
22 indicating that -- and he was in the front seat, that
23 probably somebody in the back seat might have done it,
24 well, yeah, if they came in and identified somebody,
25 well, yeah, then I'd be suspicious of their

1 identifications. So in -- every -- every instance is
2 different. Every circumstance is different. You have
3 to weigh it, you know? If I -- if a person who I find
4 out is 95 percent blind is identifying somebody from a
5 block away, well, yeah, you may -- you may question that
6 or have a concern about that identification. But again,
7 that would all have to be presented and looked at by
8 people beyond us, being prosecutors, defense attorneys,
9 judges, and juries, et cetera. You know, it -- it's --
10 you know, the veracity of that identification. So an
11 individual -- so every circumstance is different. You
12 have to weigh it. So just to state that I had concern -
13 - yeah, sometimes I'm sure I probably did, but other
14 times --

15 Q. If you felt --

16 A. But other times, no.

17 Q. If you felt that a witness had a very limited
18 opportunity, just a matter of a few seconds to witness a
19 shooter, were those the type of circumstances that would
20 raise concerns about the witness's ability to make an
21 identification?

22 A. No, not necessarily. Again, because --

23 Q. What about the past -- I'm sorry, go ahead.

24 A. That person came in and was very sharp on
25 their identification and explained that, no, this is the

1 guy, 100 percent, they're not waffling, they're not
2 guessing, they're not -- you know, some people -- again,
3 you know, not a scientist, not a doctor, but -- you
4 know, you hear about people that have near photographic
5 memories, you know, where they can remember things that
6 they get -- and again, it's the -- if -- if I saw you in
7 an instant shooting somebody, even though it was an
8 instant, well, I've met you before, I know you, so the -
9 - the -- the momentary time is not as -- as crucial.

10 Q. So were you trained as -- when you were a
11 detective, or as a sergeant overseeing detectives, about
12 the difference -- about differences in the reliability
13 of identifications of familiar suspects versus
14 strangers?

15 A. I -- I'm sorry, can you repeat that? I missed
16 the first part there.

17 Q. Yeah. Were you trained at all when you were a
18 detective or a supervisor of detectives about
19 differences in the reliability of identifications of
20 familiar individuals versus strangers?

21 A. Not that I can specifically recall.

22 Q. And if you had a stranger -- a situation in
23 which a witness was being asked to identify a stranger,
24 if they had only a few seconds to view that stranger,
25 would that raise concerns about their ability to make an

1 identification?

2 A. No. I mean, again, it's -- it's -- it's case
3 by case, person by person. Everybody's different.

4 Q. And in a stranger identification -- oh, I'm
5 sorry. Go ahead.

6 A. So you have to take the circumstances. It
7 could have been dark out, no lights, and he saw him in
8 an instant. Okay. It could have been bright lights,
9 you know, sunny day, and the suspect had very particular
10 features or whatever. So you have to look at each case
11 differently and individually. And again, if the person
12 came in and made an identification, that -- that is not
13 for me to -- my -- my report, my documentation, and it
14 confirms that, is that an identification was made, and -
15 - and then somebody else who would then either review
16 the case or charges or present the case in court or a
17 defendant can, you know, look at it and then try to
18 determine further the weight that they're going to put
19 on that identification.

20 Q. And then would the -- in the case of a
21 stranger identification procedure, would you have -- did
22 you have any concerns about the ability to make reliable
23 identifications with the passage of time?

24 A. Again, you'd have to look at it case by case.
25 You know, it could be a total stranger, but he looks

1 just like my father. The guy just looked like my
2 father. Well, I'll remember that face because I have a
3 reference for that person. You know, if -- so, again,
4 case by case, individual by individual.

5 Q. When you were -- when -- were you trained that
6 when -- well, strike that. In 2002, when you were a
7 sergeant supervising detectives, what was your
8 expectation of what detectives would say to the
9 witnesses when they viewed photo arrays before they
10 showed them the photos?

11 A. Well, I would expect them not to be suggestive
12 in any way and say anything that may be suggestive or
13 may lead to the identification of an individual, and
14 also just to let the person know that a suspect or an
15 offender may or may not be in that photo spread shown to
16 them. So you don't want somebody thinking, hey, the
17 guy's in there, you know, because then they're looking
18 hard, looking hard, looking hard, thinking the guy's in
19 there. You got to let them know he may or may not be in
20 there. And you don't want any -- them to suggest
21 anything. You know, you want to say maybe the guy had
22 an afro at the time, before you show the photos, and
23 then you're showing one guy with an afro in there. You
24 know -- you know what I'm getting at? So you -- you
25 would want them, and I've never seen anybody do other

1 than that, where it was -- you -- you just want to leave
2 it an unbiased, unprejudiced photo spread or lineup, you
3 know?

4 Q. And so obviously you couldn't indicate who the
5 suspect was in the lineup or photo array, correct?

6 A. Obviously. Correct.

7 Q. And you -- and if I'm understanding you
8 correctly, you were -- the detectives were not to
9 indicate that there even was a person who was the
10 suspect in the lineup; is that correct?

11 A. Correct. They should just be showing the
12 witness or the victim photos and -- and letting them
13 know that the -- a -- a suspect or offender may or may
14 not be in there.

15 Q. I see. And that's true for both lineups and
16 photo arrays, correct?

17 A. Correct.

18 Q. And so what they'd be saying to them is
19 something along the lines of, do you recognize anybody,
20 or does anybody in these photos look like the person you
21 may have seen? They may or may not -- person may or may
22 not be in this photo, do any of these people look
23 familiar? Something like that.

24 A. Along their lines, something like that. Yeah.

25 Q. And then if an individual makes an

1 identification, was there any expectations of what the
2 detectives were to say to those witnesses after they
3 view the lineup or photo array?

4 A. As far as --

5 Q. Yeah. Like, were detectives expected to ask
6 them, you know, are you confident? Are you sure? Are
7 you certain? How certain are you? Those kinds of
8 questions.

9 A. You can, sure. If somebody runs up to the
10 glass and pounds on it and yells out, "That's the guy,
11 that's the guy" and falls to the floor and passes out, I
12 don't think you need to ask those questions. If
13 somebody says number one, then you may ask, look, how
14 certain are you? I'm certain it's number one.

15 Q. Well, were detectives expected to essentially
16 try to get some indication from the witness, either it's
17 obvious from their behavior, or ask them verbally how
18 confident they are in their identifications?

19 A. Again, they could ask or they could leave that
20 for the state's attorney to ask, you know, who -- who
21 may be reviewing the case, given if it's a felony or
22 not, you know, how confident are you, you know? But
23 yeah, I mean, you -- at some point that would be
24 clarified either by the detectives or by the state's
25 attorney or -- or -- you know.

1 Q. I think yesterday you indicated that anything
2 that's done during the course of the identification
3 procedure, for example, the lineup, if you have the
4 individuals repeat a certain phrase, or if you have
5 them, you know, turn a certain direction, you know,
6 whatever it is, that might be relevant, you know, to
7 help the witness in the identification procedure, that's
8 to be documented, correct?

9 A. Correct. Anything that's -- yes. You know,
10 like, there's times we had tall guy and you couldn't
11 find tall fillers, so you had everybody seated. So you
12 would state that. You know, all participants were
13 seated. If you had like -- again, like if you had like
14 a sexual assault, and during the sexual assault, the --
15 the -- the male or whatever was talking to the female,
16 or said certain words, you may have them speak those
17 words and -- and see if -- maybe even in addition to a
18 physical, or they -- they might have, you know,
19 identified -- you may also have them speak, the words,
20 so they could say they identified physically and then
21 they also identified by voice.

22 Q. Okay. And similarly --

23 A. Or here's a voice, you know, the guy's got a
24 mask on, but he's talking to him the whole time, and it
25 may be just you having them speak, you know, because

1 there was no view of his face, and identifications can
2 be made that way. Again, you would document that, and
3 the weight on that identification would be determined
4 later.

5 Q. And so basically, those kinds of
6 identifications, voice identifications, other procedures
7 like that, as long as you're documenting that that is
8 what you did, you can do that?

9 A. Correct. Correct. Depending on the case.
10 Like I said, all circumstances, cases are all different,
11 and you do the best you can based on the circumstances
12 in the case.

13 Q. If witnesses indicated that they were
14 uncertain or not sure in an identification, did that
15 need to be documented?

16 A. Correct. I mean, there's times where people
17 say, you know, it looks like that guy, looks like that
18 guy. Well, how sure? Well, I'm not -- you know, I'm
19 not sure, I'm not 100 percent, but I think it's that
20 guy. And that's exactly how you would document it, as
21 --

22 Q. That wouldn't be documented as they made a
23 positive identification, that would be documented as
24 person indicated that this person looks similar, it
25 could be this person. Something that indicates that

1 it's not a certain identification, but a tentative
2 identification, fair?

3 A. Yeah. Looks similar, could be, possibly from
4 the people in the lineup, it -- he looks the most, the
5 closest, whatever the words are. And some guys use the
6 word, it was a tentative ID, and then they would let the
7 witness explain that, either to state's attorney or, you
8 know, anybody else that would ask later on --

9 Q. But in that kind of a situation, you got to
10 document either that it was a tentative ID, or that the
11 person said it looks like the guy, could be the guy, but
12 not say they positively identified this person, fair?

13 A. That's fair.

14 Q. Okay. And just like tentative IDs -- well,
15 strike that. And if the witness indicated that they
16 were certain in an identification, that should be
17 documented too, correct?

18 A. Well, I don't know if you'd have to write down
19 that he said he was certain, but that would be a
20 positive identification. And then he can fill in the
21 words if asked later by state's attorney or anybody else
22 where he says, "I was certain, I was positive, I'm --
23 I'm -- I'm -- without doubt it's him," et cetera, et
24 cetera. I don't know you have to -- sometimes guys
25 would document exactly what the -- the witness stated,

1 you know, quoting them and -- but it's not necessary
2 that you do that.

3 Q. And if you indicated, you know, if a witness
4 falls over and passes out, because they're so certain,
5 you know, this is the guy who did this to me, or, you
6 know, did this to my friend, that's the kind of thing
7 you'd document? Something that indicates --

8 A. I -- I would, because that would indicate, you
9 know, the -- the -- the certain belief for that person
10 that that is the guy. I mean, if there was the -- those
11 extra, you know, pounding on the glass, passing out, I
12 would have documented. But again --

13 Q. And I have --

14 A. -- they come out, they -- it was a positive,
15 and when asked later, he'll remember or something that,
16 yeah, the guy passed -- or woman screamed and passed
17 out. So you -- it's not required that you write it that
18 way because that one there would be considered positive.

19 Q. And you mentioned the idea of not having
20 suggestive photo arrays or lineups. And what do you
21 mean by suggestive?

22 A. It could be a thousand things. I mean,
23 there's many ways where -- I mean, let's take the
24 extreme --

25 Q. I don't mean to go through all the myriad

1 **ways, and I --**

2 A. But -- but where you -- you're -- the photo or
3 the physical lineup, just by the way it's set up with
4 the type of individuals, points towards the one -- one
5 individual. So, for example, you have a 7' tall
6 offender, and all your fillers are 5', and the witness
7 stated he was seven foot tall. It's not like she saw
8 him in a car, okay? Or, you know, let's take the
9 extreme where you have a male White offender and you put
10 him in there with four African Americans. Well, again,
11 that's an extreme that would never happen, but that's
12 what -- you're suggesting it. Or say at the time of the
13 crime, a witness had described the individual and stated
14 what he was wearing a -- a -- a yellow guayabera, you
15 know, a Hispanic type shirt. And now you get your
16 suspect in there and he's wearing the yellow guayabera,
17 and he's the only guy in there wearing it. Well, no.
18 Either you get him a different shirt, or have the other
19 guys wear the same shirt he's wearing. So there's many
20 things you have to look for. You know, they used to say
21 age, race, gender. You can't say that. I can get four
22 guys that are exactly 50 years old, they're male Whites,
23 doesn't mean anything. You know, one of them could be
24 way overweight, one of them -- so it's the physical
25 thing. You can have a -- an individual that looks like -

1 - like he's female. Well, you can't put four distinctly
2 male- looking guys. So your gender's not right.
3 However, you know, you -- you -- you know, you have to
4 get maybe females in there because, when you look at it,
5 it -- it would be more -- it would be a better lineup
6 that is not leading somebody's eyes to one person in
7 particular. You know, you're -- you're now giving them
8 an even -- you know, on -- on an even field when they do
9 that lineup, as best as is possible. You know,
10 sometimes -- like, again, you can have -- we had a -- a
11 short person as an offender. Well, it's going to be
12 hard for you to find four, you know, very short people
13 for lineups, so you may have to accommodate that by
14 trying to have them seated or whatever -- the best you
15 can do. So again, it gets back to as best as it's
16 possible, you know. But yeah, not suggestive, and it's
17 by looking at it, determining, again, maybe the offender
18 had glasses, but you don't want one guy in a lineup
19 wearing glasses. You should put glasses on everybody
20 else. Or a prison jumpsuit. You get the guy out of the
21 joint, he's wearing an orange suit -- jumpsuit? Well,
22 because that's the way he came, you can't just throw in
23 a lineup that way. He's going to stand out, you know?
24 So you have your jail jumpsuits, or you give him
25 civilian clothes. I'm sorry --

1 Q. I think the example -- I think the language
2 you just used was -- so -- what -- part of the idea is,
3 you don't want one person to stand out. That's the kind
4 of thing that makes a lineup suggestive, fair?

5 A. That's possible. Correct. You can have
6 different --

7 Q. And --

8 A. -- people, but there's no thing that's just
9 one guy jumping at you for -- out at you for one reason
10 or the other.

11 Q. And if I think you cut out for a second for
12 me, but you used an example of, you know, witnesses say
13 the suspect had a distinct style of yellow shirt. In
14 that example, if you have your suspect, you arrest him
15 and he's in a yellow shirt, he should either not wear
16 the yellow shirt, or you should put everybody in yellow
17 shirts. Did I understand that correctly?

18 A. Well, it doesn't necessarily have to be
19 everybody, but you can have, you know, a few other guys,
20 so it doesn't jump out at you. You know what I mean? I
21 mean, that would be the ultimate, if you could. And
22 it's all -- all of this is when possible, to the best
23 you can.

24 Q. And then similarly things -- I mean, that
25 could -- this is -- let's use the height as another

1 example. You got a tall suspect, you don't want to have
2 a bunch of short fillers, or if you do, you need to have
3 them all sit down. Fair example?

4 A. Sure. To try to level the playing field as
5 much as is possible.

6 Q. Same thing with hairstyles. If the witness --
7 if there's eyewitnesses say that the person had an afro,
8 you can't have a suspect who's wearing an afro, and a
9 bunch of fillers who aren't -- who don't have afros
10 there.

11 A. Well, on that one there, you'd have to look at
12 the amount of time that has progressed, too. You know,
13 if -- if it's two days after the crime, and they said
14 the individual had an afro, and again, you -- you get
15 your suspect and he has an afro, and he's the only one
16 in there, then no. And vice versa, you know, if he --
17 could have shaved his head. So -- you know, but there -
18 - my point being is, you may have short -- short hair
19 today. If we find you years later, your hair may be
20 longer than what they described at the time. So you
21 know, it's -- you have to look at the totality of it
22 all.

23 Q. I guess in that example, maybe I'm confused.
24 In that example where the witnesses described somebody
25 with an afro, and then you pick up your suspect, you

1 know, two weeks later, and he's -- and he's bald, in
2 that example, do the fillers need to have afros, or
3 should the fillers have -- be bald like the suspect?

4 A. They can all be bald, because now everybody in
5 there is -- is level -- is similar.

6 Q. Okay.

7 A. Or if you have two with afros and she still
8 picks out the short hair guy, that makes it even
9 stronger in my mind because it wasn't just going for a
10 person with an afro. But then, if it's a shaved head,
11 then everybody would -- you know, can have everybody
12 with shaved head, or not. You know --

13 Q. I think -- so putting aside the change of, you
14 know, hairstyle or necklace or whatever, the idea is, if
15 your suspect has an afro, you should have fillers who
16 have afros, or if your suspect is bald, you should have
17 fillers who are bald, fair?

18 A. As best as possible, and again, depending on
19 the case, depending the amount of time that has gone by,
20 et cetera, et cetera. So if -- again, he could have --
21 if he had an afro, you know, and has shaven and time has
22 changed, it changed. If the guy had short hair and she
23 says he had short hair, but months have gone by and he
24 could now have long hair, well, you know, you don't have
25 to have short-haired people in there, you can -- you

1 know what I'm saying? You can have -- as long as they
2 look all similar in that lineup. So you can have
3 long-haired people in lineup, even though, at the time
4 of the offense, she said short hair because that's what
5 he's got. It's best to have --

6 Q. I think that's what I'm getting confused --

7 A. -- similar hair as best as possible. And if
8 you say that he has long hair, but you put short hair in
9 there, then that's like the opposite. That's like
10 you're even pulling away from him, and if they still ID
11 him, then it's -- it's -- it would make it even a little
12 bit of a stronger identification, because they avoided
13 the long hair and went to the shorter hair. So they
14 identified it by other features.

15 Q. So are you saying, with the passage of time,
16 that if the suspect has an afro, that everyone else
17 should have an afro as well, or you should try to have
18 other fillers with afros, but if the time passes, then
19 you could have your suspect stand out as being the only
20 person with an afro? I think I'm misunderstanding you.

21 A. I'm not saying that at all.

22 Q. Okay. So -- okay. So putting aside the
23 examples where somebody -- all I'm saying is, am I -- am
24 I -- am I understanding you correctly that, if your
25 suspect has an afro, you should try to have fillers who

1 also have afros; is that fair?

2 A. He has an afro while he's standing in the
3 lineup.

4 Q. Yes.

5 A. -- you should have similar characteristics as
6 best as possible. Correct.

7 Q. Okay. And similarly, if that suspect, even
8 though the witnesses originally described somebody with
9 an afro, if your suspect, when you pick them up, is
10 bald, you should have fillers -- you should try to have
11 fillers who are also bald, fair?

12 A. Well, wouldn't a lineup with two guys that are
13 bald and three with afros be even a better lineup?
14 Because it's not -- it's -- it's the opposite of being
15 suggestive. You're actually pulling away from your
16 offender then, and you would have their eyes go -- if
17 they were uncertain, their eyes go more towards the
18 persons with afros. So that would kind of be the other
19 way around.

20 Q. So you're saying you could actually -- I guess
21 what I -- that's what I'm trying to understand. You're
22 saying in my example, if your suspect comes in -- if
23 your witnesses describe somebody with an afro, but when
24 you pick up your suspect, he's bald, you're saying it's
25 okay to have a lineup in which the suspect is bald and

1 all the fillers have afros?

2 A. No, that's not what I'm saying. I'm saying --
3 I'm just saying, hypothetically, you can argue that that
4 would be -- but I would never do one different than the
5 rest. And again, it's as best possible. What -- what -
6 - what is available, what is available in the lockups,
7 who will you get on the street to volunteer? There's
8 times we couldn't get a good filler in the lineup -- or
9 in the lockup, or volunteers, and we had to ask police
10 officers to don civilian clothing or whatever to -- to
11 do that. So you do the best possible to make -- to
12 match that everybody in the lineup looks similar and is
13 not unduly suggestive in any -- you know -- as best as -
14 -

15 Q. I think you described -- so you -- if you have
16 somebody who has, like, a distinct tattoo on their face
17 or a distinct feature on their face like that, for --
18 that's a tough one, but what you'd have to do in that
19 situation is you'd have to have fillers -- you'd have to
20 have everybody sort of wear a Band-Aid or a tape
21 covering one part of their face, something like that,
22 right? How do you handle that kind of situation?

23 A. Well, if you had -- you know, common thing is
24 the teardrops under their eye. So if you have an -- you
25 know, a witness says, yeah, the guy -- so-and-so, this

1 height, this weight, Hispanic, teardrop under his left
2 eye, you don't want to put your suspect who, if in fact
3 he has a teardrop under his left eye, be the only guy
4 with a teardrop under his left eye. So either you can
5 pen in teardrops on the other guys, or you put a
6 Band-Aid over -- under everybody's left eye, so that is
7 not an -- you know, they're all then wearing a Band-Aid
8 and there's -- you can't tell anybody with a tattoo or
9 not.

10 Q. In other words, that's how you'd make sure
11 that one guy doesn't stand out?

12 A. Correct.

13 Q. Okay. If you had somebody who was handcuffed,
14 then either everybody should be handcuffed, or nobody
15 should be handcuffed?

16 A. That's correct.

17 Q. If you had -- well, I -- that -- I think that
18 explains it. And then I think you -- I don't want to go
19 into details. I think this one we did talk about at
20 your prior deposition. But regardless of the result of
21 a photo array or a lineup procedure, whether it's a
22 positive ID or a negative ID, it should be documented,
23 correct?

24 A. And a photo array was shown, that is correct.
25 And --

1 Q. And if a lineup was shown also -- you're
2 cutting out, so let me try it again. Sorry. And let me
3 do it separately, just so that it's clear. If a photo
4 array is conducted --

5 THE WITNESS: Just lost him. Think he might have
6 hit his --

7 THE REPORTER: Should I take us off the record?

8 MR. STEFANICH: Yeah. We're going to take a
9 bathroom break anyways, so --

10 THE REPORTER: Okay. We're off the record.

11 (OFF THE RECORD)

12 THE REPORTER: We're back on record.

13 BY MR. SWAMINATHAN:

14 Q. Okay. Mr. Wojcik, the -- for photo arrays in
15 particular, as of 2002 at the time of the Sorrell
16 investigation, you had the ability to get photos from
17 the ICAM system, correct?

18 A. I believe so, yes.

19 Q. In fact, I think on Tuesday, we talked about -
20 - we were talking about the Jackson case involving an
21 investigation in 2000 and 2001, and in that case, there
22 was the use of ICAM photos, fair?

23 A. Right. Yes.

24 Q. Okay. So in 2002 -- so can you just explain
25 for -- just so I understand, in and around the time of

1 the Sorrell investigation in 2002, what were the tools
2 that were available to homicide detectives for purposes
3 of gathering photos for a photo array?

4 A. Well, you had -- at that time, I believe you
5 could still get photos from Ident, you know, either a
6 black or white on an emergency basis, or a color that
7 you can order ahead of time, which would be CB photos.
8 The ICAM I believe was still -- obviously, that was
9 still going. I don't know about the CRIS system, if you
10 were able to pull the photos on that yet or not, I'm not
11 sure. You had -- if need be, and you had no photos, no
12 arrest record on somebody, you could try for a driver's
13 license photo. And then other photos if -- that you ran
14 around there, you can -- if, say, a witness had personal
15 photos of somebody, then you'd have to, you know, resort
16 to using those.

17 Q. And then was there also photos that were kept
18 in the detective divisions, or in the tact or the gang
19 teams of --

20 A. Mostly. Yeah. Not most of them, but some of
21 them had, you know, gang photo books. And obviously you
22 can try other jurisdictions, other law enforcement,
23 county, IDOC, stuff like that, if needed.

24 Q. But you mentioned the gang photo books, so you
25 could pull photos out of those books to use in a photo

1 **array; is that right?**

2 A. No. I mean, I -- I -- technically the way we
3 did it was we would just show that book. So most of the
4 books that were utilized in that fashion were -- had
5 multiple pictures per page, and multiple pages in the
6 book. So there could be, you know, 600, 700 photos in
7 that particular book. So if you were, say, at a loss
8 for anything, and you were showing a gang book because
9 somebody said they might be Cobras, you might show a
10 Cobra book, say, and let them page through it, you know?
11 So you wouldn't have to, excuse me, take the photos out
12 of there necessarily. But now if they said Pookie, a
13 Cobra from, you know, Potomac and Lemoyne, and you had
14 Pookie from Potomac and Lemoyne in there, and you wanted
15 to temporarily pull it out, use it in a spread, I don't
16 see -- you know, there was no rules or -- saying you
17 can't do it. However, you'd have to maintain that book
18 by putting that photo back in there at some point. So
19 to say you can't pull it out or you could, you know, you
20 would try not to. I would try not to personally because
21 I want to maintain the integrity of that book as it had
22 been. It might have been used prior by somebody else,
23 and -- for purposes of that. So you could, you know, but
24 it wasn't a -- a lot of times there wasn't a need to
25 pull it out.

1 Q. Okay. And you just referenced Ident. You
2 could ask Ident for photos. Ident means the
3 identification section, correct?

4 A. Correct. I mean, if you were able to get -- I
5 mean, you usually go to the easiest -- whatever your
6 quickest source is, or fastest way for either was with
7 Ident. You normally -- I believe so at that time, you'd
8 have to put a request, in a written request, put it in
9 the mail, wait for them to receive it, wait for them to
10 fill it, and then send it back to you. In extreme or
11 emergency circumstances where you had no options, say
12 you did everything, I couldn't find it on ICAM here, but
13 I think Ident has one, but we need it tonight, you know,
14 our witnesses are here, this guy might kill somebody
15 else or shoot somebody else or flee to Mexico or
16 whatever, where we can't get our hands on them, then,
17 you know, there was times where we can then have our
18 commander contact Ident commander or whatever, and have
19 somebody come in, and it would be a black and white.
20 They'd have to print out a black and white one from the
21 old film system. So you normally would go with, you
22 know, if you find one, no matter what it is, you know,
23 if you find one in a gang book, if you find one, you
24 know, else -- usually the first one you find or the
25 easiest one for you to -- to work with is what you

1 probably go with, you know, even though you may be able
2 to wait a few days or find it on another system, if you
3 found it somewhere, you can use that.

4 Q. And then you mentioned -- and obviously you
5 talked about ICAM. ICAM basically was a database that
6 had arrest photos for individuals. It was full of the
7 arrest photos for everybody who'd been input into the
8 ICAM system, fair?

9 A. For people put into the system. Correct.

10 Q. So by 2002, there would've been, I mean,
11 definitely hundreds, but more likely thousands of photos
12 in the ICAM system, fair?

13 A. I'd have to -- I -- I couldn't say. I don't
14 know when they started putting them in there. But I --
15 I imagine they tried to go backwards and put people that
16 were arrested prior, but I couldn't say how many were in
17 there. But yeah, I would probably assume there would be
18 thousands in there.

19 Q. And in the ICAM system, could you select, you
20 know, I'm looking for some -- I want photos of
21 individuals who are Black or Latino or White, you could
22 pick filters that you wanted about the individuals,
23 correct?

24 A. At -- at a certain time, I'm not sure, you
25 know, if initially you could do that or you were just

1 pulling people up and say you had an -- an IR name or
2 whatever, and you pull the photo up where, if you'd have
3 to just try to pull more up or if you -- if they had
4 those filters. But they did at some point where you can
5 then assemble one based on whatever filters you would
6 use. And I don't know exactly when that evolved or not,
7 you know, I -- I couldn't say with specificity.

8 **Q. Can you say as of 2002 whether that existed or**
9 **not?**

10 A. I can't say for certain.

11 **Q. What's your recollection of whether you had**
12 **that capability as of 2002 in the ICAM system?**

13 A. Well, I -- I'm not certain. I -- I believe we
14 -- we may have, but as I sit here right now, I -- I -- I
15 can't be certain.

16 MR. SWAMINATHAN: Okay. I'm going to show you a
17 document on my screen. We'll mark it as Exhibit
18 1. Just pull this up.

19 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

20 MR. STEFANICH: Is this one of the exhibits that
21 was sent to us?

22 MR. SWAMINATHAN: Yes. Let me find it.

23 MR. STEFANICH: We have them printed out, so --

24 MR. SWAMINATHAN: It is -- trying to get it moved
25 so I can see it.

THE REPORTER: Should I take us off while we wait
for him to hop back on?

MR. STEFANICH: Sure.

THE REPORTER: All right.

(OFF THE RECORD)

MR. SWAMINATHAN: I apparently really like
kicking myself out of this system. Sorry.

THE WITNESS: It's all right.

MR. SWAMINATHAN: All right. What did I do?

Okay. This is the -- this is City JF 190, Brian,
and I'll show it on my screen, but if it's easier
for him to look at it on paper, that's fine, too.

MR. STEFANICH: Excuse me a second.

BY MR. SWAMINATHAN:

Q. Okay. Do you have it in front of you,
Mr. Wojcik?

A. Yes.

Q. Okay. I'm showing you a document I've marked
as Exhibit 1. It's City JF 190. At the top, it says,
"Request for Identification Photos, Chicago Police
Department."

A. Correct. This --

Q. Is this a form that's -- or a document that's
familiar to you?

A. Yes.

1 Q. Okay. And what is this, what is a request for
2 identification photos?

3 A. It would be a request that we would send down
4 to Ident for their arrest photos, you know, CB photos,
5 central booking photos.

6 Q. And so this was a -- the form you basically
7 fill out as a detective and you could send it -- you'd
8 send it into the identification section and then they
9 would send back photos for whoever you'd requested,
10 right?

11 A. Well, like I stated earlier, you'd use this
12 form and like here it says, request for color. So then
13 you would send that one in the mail because those would
14 not be done on an emergency basis. You'd send it in,
15 wait for them to send you the photos back in the mail.
16 So McDonald would send this to Ident. Ident would get
17 it, they print out the color photos for the IR number
18 given, and send it back to McDonald. Now, if you see
19 the other boxes, what I was talking about, where it's
20 kind of an emergency and you're waiting for them, you
21 could -- you could also hand carry this down. Again, if
22 your lieutenant, sergeant, commander, whatever had made
23 contact with Ident and said, hey, look, we need the
24 pictures right away, have somebody come in. I'm going
25 to send, you know, the -- the detectives or whatever who

1 was requesting it would go down with this form with that
2 emergency box checked and hand carry this down to Ident
3 to get those photos immediately if they could. There
4 was not -- I mean, they frowned on us doing that unless
5 it was a -- a real emergency. I'm sorry.

6 Q. And then in this example, they're going to
7 pull the arrest photos for, in this case, an individual
8 named Fletcher Clinton based on that IR number 08231415,
9 it looks like, correct?

10 A. That's what it looks like. Correct.

11 Q. And so they, in that instance, they would --
12 they pull just one arrest photo or all of the arrest
13 photos associated with that IR number?

14 A. Normally you'd get -- I -- I -- I remember
15 they never sent them all and I don't know if they, you
16 know, again, human nature, you would think that they
17 would probably send you the most recent. The other
18 thing you can do is, if you wanted a certain photo, you
19 know, you'd have to then go down and ask them for a
20 certain CB. But I don't remember them, you know, if a
21 guy was arrested 30 times sending you 30 different
22 photos. They would send you the, you know, you'd
23 probably get maybe like two -- two or three color
24 photos, usually the same CB. Like here, he has
25 specified he wants four copies. If you look at request

1 for color and then it says four copies. So he is asking
2 to send him four copies of -- of the Fletcher Clinton.

3 Q. Okay. Let me show you another -- you can put
4 that one to the side. Showing you another document I've
5 marked as Exhibit 2. This is City JF 98 and 99.

6 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

7 BY MR. SWAMINATHAN:

8 Q. Page 99 appears to be a arrest report; is that
9 right?

10 MR. STEFANICH: If you want to just give me a
11 second, I can get that --

12 MR. SWAMINATHAN: Yeah. You got it, Brian?

13 MR. STEFANICH: Yeah.

14 MR. SWAMINATHAN: Is that a yes?

15 MR. STEFANICH: No, it's a no.

16 MR. SWAMINATHAN: Okay. It's a rap sheet for
17 Rogers if you're looking through mail to find it.

18 MR. STEFANICH: All right. He's got it.

19 BY MR. SWAMINATHAN:

20 Q. Okay. Looking at Exhibit 2, this appears to
21 be two pages. Are these two types of documents familiar
22 to you on Pages 1 and 2?

23 A. Yes.

24 Q. What are they? Are you looking at the
25 documents right now?

1 A. Yes.

2 Q. Page 1, what is that? That's a -- is that a
3 criminal history or rap sheet?

4 A. That's correct.

5 Q. And then Page 2 is an arrest report, correct?

6 A. That's correct.

7 Q. Okay. This particular case, these are for an
8 individual named Terry Rogers or aliases associated with
9 Terry Rogers, correct?

10 A. Correct. Yeah. Terry Rogers, Fred Rogers,
11 Jimmy Rogers.

12 Q. Okay. And also it's all names or nicknames
13 for the same individual with a single IR number,
14 correct?

15 A. Yes. It's all by fingerprint. It would be
16 under that IR 553789.

17 Q. And these are documents that also come from
18 the identification section, correct?

19 A. Correct.

20 Q. Okay. So when you make a request for --

21 A. The arrest report doesn't come from the
22 identification section. I mean, that would be filled
23 out by the arresting officer then sent to the
24 identification section. So yes, you can later, you
25 know, request a copy of it. Yes. So --

1 Q. And in this particular case --

2 A. I'm sorry, go ahead.

3 Q. In this case, if you look at Pages 1 -- on
4 Page 1, near the top of the page, you can actually see
5 on my screen. I can highlight it here just so you can
6 see what I'm pointing at. There's this stamp on it. Do
7 you see where it says, "Issued on inquiry February
8 22, 1995"?

9 A. Correct.

10 Q. Okay. What does that mean?

11 A. My understanding of that is somebody called or
12 sent the form in, requesting it -- this individual's
13 arrest record as opposed to he was arrested,
14 fingerprinted, and they're sending this to the district
15 or whatever to attach to his court papers based on his
16 fingerprint, you know, having hit. So this is --
17 appears to be somebody requesting the arrest record.

18 Q. The detectives could call over to the
19 identification section or make another -- or make a
20 written request to the identification section to get a
21 copy of the arrest record for somebody, correct?

22 A. Correct.

23 Q. So this would be somebody in the
24 identification section sending it back to the detectives
25 in response to their request, correct?

1 A. Correct. Like -- and this was like pre-CRIS
2 or pre-automated. This is what we would have to do to
3 get that record. You know, it wasn't available. Ident
4 had them down there, paper copies, master copies. You'd
5 request it and then they'd send you four, you know,
6 daytime, their normal -- their normal business hours.
7 You'd run down there and fill out the form to request
8 the arrest record. And then you may ask for a specific
9 CB or a specific arrest report based on the
10 CB.

11 Q. And then -- and similar, and so if you look at
12 Page 2 of the document, there's that same, February 22,
13 1995 issued on inquiry stamp, correct?

14 A. Correct.

15 Q. This would indicate that a request was made
16 for Mr. Rogers's criminal history, arrest history, along
17 with at least this particular arrest report, correct?

18 A. That's my understanding, correct.

19 Q. Okay. And this -- the February 22, 1995
20 issued on inquiry, so that would be -- is your
21 understanding that's the date that the request was
22 fulfilled? So the person who's stamping it is the
23 person in the identification section saying, "This is
24 the date I essentially fulfilled the request from the
25 detective"?

1 A. Well, I can't say that, you know, somebody
2 there stamped it, but my assumption and my belief is
3 that, yes, they would say that the request or the
4 issuance of that request was on that date and they stamp
5 it and then forward it or hand it to the detective if he
6 was there or forward it by mail.

7 Q. So the -- so -- but just -- I guess maybe let
8 me break it down. The stamp that's put on this issued
9 on inquiry that -- the detective division doesn't stamp
10 these, correct?

11
12
13 A. That's correct. Not -- I've never -- not to
14 my knowledge, they -- we never did. No.

15 Q. Okay. So the stamp is being put on there by
16 the identification section?

17 A. That's my belief. Correct.

18 Q. And then the identification section -- how
19 long did it usually take the identification section to
20 fill these kinds of requests?

21 A. Well, again, you know, if it's their normal
22 business hours, it was for the most part civilians
23 working there and there were some officers that were
24 assigned there. It -- it would be normal hours. So
25 like maybe on second watch, you know, if you wanted to

1 jump in a car, take your request form, go down there and
2 request it, then you might be able to get it right away.
3 If you do it by mail, there's no -- you know, it could
4 be, you know, human nature, maybe the -- the -- the mail
5 guy didn't come to the area and pick up the mail pouch
6 that day. So it might be a delay there. You know, it
7 was mostly done by interdepartmental mail. So then when
8 they get it, depends on how they, you know, did they
9 fill it right away? Did they get to it right away? Did
10 they send it out back right away? So you can get it
11 quickly or it may be a -- days before you get your --
12 your thing back. So like I said, if you want -- if it's
13 something you wanted and you felt you needed the
14 information faster, you are working on a case and you'd
15 run down there or have another detective, you know, if
16 you were busy with something else and you needed some
17 assistance, ask somebody else to run down there and get
18 it for you.

19 Q. And I guess that was my question. I had --
20 I've had a lot of detectives testify, you know, it would
21 take often months for us to get firearms testing results
22 back, right? You get --

23 A. Oh, that's different than this.

24 Q. Yeah. That -- that's why I was asking. So is
25 this one where -- so identification section was --

1 A. As you know, at state lab, there was rape kits
2 that weren't being done for years.

3 Q. Yeah.

4 A. So this is totally different. This is the
5 identification section, so they -- it's different. It's
6 just paper, you know?

7 Q. Okay.

8 A. Back then they had the master arrest reports.
9 There's nothing on a computer. It was all paper, you
10 know. So basically when somebody would get arrested,
11 they'd sit down with a typewriter and type this
12 information in, you know, who arrested him or what
13 district, et cetera, et cetera. And it -- and then they
14 put that back in the file and sometimes it would get
15 updated with the results of the cases, et cetera, as
16 they became aware. But if that paper copy got lost,
17 well, good luck. But anyway, so then you go there,
18 they'd go into wherever their filing system was, the
19 boxes, whatever they had, they pull that one out and
20 they'd make you a copy of it. That's the way, you know,
21 before computerized system, that's the way it was done.

22 Q. So this wasn't a -- this was a type of
23 document from identification section where you could get
24 it -- you could get a response back to them pretty
25 quickly?

1 A. Again, depending on the watch and depending on
2 if they're there, you know, and the manpower, but you
3 could if it's like a photo, it would be an emergency
4 basis. But in the -- in after hours, you -- you'd
5 probably have to wait until they show back up for work,
6 close to second watch, right?

7 **Q. So typically you'd be able to get it back the**
8 **same day or the next day depending on what the time of**
9 **day was?**

10 A. No, not typically, no. I mean, if, again, if
11 you went down there and it was at a time when they were
12 working and you -- you take the -- hand carry the
13 request down, then you should be able to get a copy
14 because they are there. They weren't a 24-hour
15 operation. You know, it was mostly civilians in there.
16 There were some officers in there, but, you know, it
17 wasn't 24 hours. So - and if you sent it by mail, then
18 it -- it, you know, there is no set -- it could -- you
19 could get it back in a day or two. It could be a week.
20 It could be two weeks.

21 **Q. Okay.**

22 A. You know, again, depends on who fills it out,
23 you know, how fast they fill it out, when they throw it
24 in the mail, is the mail pouch picked up, is it --
25 sometimes they -- you're supposed to come, you know,

1 once or twice or three times a day to each unit to pick
2 up the mail pouch and it -- it's supposed to, but it
3 never really worked out that way, so --

4 Q. So this one has if you see at the very top,
5 there's an indication that it was -- there was a -- it
6 was faxed. It's cut off a little bit on this copy, but
7 it looks like the -- this was actually faxed back over
8 to the detective division. Do you see that?

9 A. I can't state -- I see something that says
10 Ident number, but other than that, I can't tell.

11 Q. Okay. But in the -- but could the
12 identification section also fax these back to the
13 detective division?

14 A. I'm sure. I probably could have. Yes. I --
15 I -- I believe so.

16 Q. So in those instances, the document would've
17 been a written request would've been made through the
18 interdepartmental mail and then eventually --

19 A. Or -- or possibly the written request faxed
20 there.

21 Q. Okay.

22 A. And then they received the fax and -- and send
23 it over.

24 Q. Okay. So you think that was another way to do
25 it is you could fax the request over and get it back?

1 A. Yeah, I'm not sure. I know that I can state
2 that that was done. I don't know if that became --
3 evolved into that, where we were able to do that, or,
4 you know -- I remember most of the time we were hand
5 carrying things down, if we needed it quickly, putting
6 it in the mail. But now that you mentioned the
7 potential fax, I mean, I don't know if initially they
8 were doing it that way or if they wanted people to come
9 in with the original form, but eventually I think it
10 evolved, you know, where we were able to fax also.

11 MR. SWAMINATHAN: Okay. Okay. We can put that
12 one to the side. Brian, the next document I'm
13 going to show is the -- it's City JF 66 through
14 85. I have it up on my screen here while Brian's
15 pulling that up. This is City JF 62 and then 66
16 through 85. And those are all the CAPS pages. I
17 think there was a couple in the investigative
18 file, there was a couple documents that were
19 stuck in between there.

20 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

21 THE REPORTER: I'm sorry, did you say 62 before
22 66?

23 MR. SWAMINATHAN: Yes. 62 and then 66 through
24 85, yes.

25 THE REPORTER: Thank you.

1 BY MR. SWAMINATHAN:

2 Q. Okay. You have that in front of you,
3 Mr. Wojcik?

4 A. Yes.

5 Q. Okay. What is this document? This is
6 obviously some computerized printout. Can you tell me
7 what this is?

8 A. Well, it looks to me like it's a juvenile
9 arrest records, copies of juvenile arrest.

10 Q. Okay. And how can you -- and what tells you
11 that it's juvenile arrest records?

12 A. Well, pretty much in the top, it'll tell you
13 that. It says these are -- there are five juvenile
14 records listed in this report. And it reminds officers
15 about, you know, the restrictions regarding juvenile
16 records, et cetera, et cetera.

17 Q. And this is a -- this appears to be some
18 juvenile arrest records that are being pulled out of an
19 ICAM system. It says ICAM version 2.0. Do you see
20 that?

21 A. Yes.

22 Q. Okay. So this was something that could be run
23 in that ICAM system?

24 A. Correct.

25 Q. And then at the top, it says, near the very

1 top, it says, "LTS for Fletcher using." Do you see
2 that?

3 A. Yeah. I don't know if that's ITS, LTS.

4 Q. What's your understanding of what the --
5 what's being searched for here in this document, Exhibit
6 3?

7 A. It appears like juvenile arrest records for
8 individuals with the last name of Fletcher.

9 Q. Okay. Oh, LTS could be last name or something
10 like that?

11 A. That or name of Fletcher rather, whatever, but
12 Fletcher.

13 Q. Okay. And they're being specifically
14 searching for juvenile records, it looks like; is that
15 fair?

16 A. That's what it appears, yes.

17 Q. Okay. So in that ICAM system, not only could
18 you -- could you pull photos, but you can also
19 essentially search the arrest history for, you know, for
20 people with certain names or those kinds of things,
21 correct?

22 A. It appears that way, correct, at that time.

23 Q. In the top left, it makes a reference to CAPS.
24 Do you see that?

25 A. Yes, I can see. Yeah. It's kind of dim on

1 there, but I can see CAPS. Yes.

2 Q. And would it -- does that indicate anything to
3 you about this report?

4 A. Just one of the police departments. That's
5 the neighborhood -- neighborhood policing logo, and then
6 to the right, they do have Chicago Police also.

7 Q. Okay. And then this report, it looks like was
8 pulled on August 19, 1999 at 12:40 a.m., correct?

9 A. That's correct.

10 Q. Okay. And then when a search like this was
11 done by detectives in ICAM to pull, you know, names like
12 this, what were the types of reasons detectives were
13 using this ICAM system to pull this type of information?
14 Like, what was it being -- what would it be used for?

15 A. Well --

16 MR. STEFANICH: Objection. Form and foundation.

17 You can answer.

18 THE WITNESS: I would say multiple reasons.

19 Probably one of them could be to identify an -- a
20 suspect. Like here, if you're looking for
21 somebody, you know, with the first or last name
22 of Fletcher, you run Fletcher. And then you
23 could come up with various Fletchers. With
24 juveniles at the time, sometimes there was not a
25 fingerprint association between the many names

1 they were using. So you may try to make
2 associations that way or -- and I'm not sure what
3 was searchable, you know, if, back then, if every
4 box here was searchable or not, I don't know, you
5 know. So you know, could you go with an address
6 and search that out and see, you know, what
7 juveniles may pop up or it doesn't necessarily
8 have to be a juvenile. It could be just the
9 record of an individual who now can be an adult.
10 But this is what they had when they were a
11 juvenile. This was a record of when they were,
12 you know, that was recorded when they were --
13 when they -- when they were a juvenile. So I
14 would say the number one reason is to try to
15 identify somebody where you're -- if you're
16 running a name, this particular name.

17 BY MR. SWAMINATHAN:

18 Q. And then if you look at the bottom right-hand
19 corner of the document, there's basically just a page
20 number there. The first one's cut off. And then it
21 says 25, 27, 30, 18, 19. Do you see that?

22 A. I'm sorry. Where are you at?

23 Q. On the bottom right of each of these pages.

24 A. Oh, yeah.

25 Q. So it looks like a little page number there?

1 A. Yeah. I can't make it out on that first one,
2 but I do see on the, like 66, they have 25, 67 is 27, et
3 cetera, et cetera.

4 Q. Okay. So basically, it looks like it's just -
5 - these are the pages of the printout, basically, right?

6 A. I don't know because you're jumping, you know,
7 you're -- you're going from 25 to 27 on 67 and you're
8 going to 30 on 68. So I don't know that that's what
9 that is referencing, unless it's -- unless it is by --
10 okay. What it may be is by the entry. So for example,
11 on that first page, you know, you have two entries and
12 then the start of a third entry, or -- wait, you have
13 two entries -- or no, you have two entries. So I don't
14 know if they're counting it that way by entry. I don't
15 know if it's pages because it -- it kind of doesn't make
16 sense then.

17 Q. Okay.

18 A. Jumping, you know, you're having big jumps. So
19 it might be by -- if you look at the separations
20 between, it -- it -- they may be counting it that way.
21 I'm not sure.

22 Q. Okay.

23 A. You know, like in 69 now we're back at 18. So
24 you know, it --

25 Q. So you're just not sure what that -- what

1 **that's indicating; is that fair?**

2 A. That's correct. Unless, you know, these
3 things may be out of order or out of sequence and you
4 may have continuous numbers, but they're not in the pack
5 that way, in the packet I have, or starting out at
6 least. Well, going further than they -- they do seem to
7 start going in order because they go on 69 to 18 and 70
8 is 19, 71 is -- can't tell, but it's probably 20. 72 is
9 21. 73 is 22. So it may just be that these are out of
10 sequence and that is a page number. I'm not sure.

11 **Q. And then in this case, so it looks like at**
12 **least one -- so the various names that came up in the**
13 **course of this search included Fletcher Clinton,**
14 **Fletcher Cobbs, and so on, correct?**

15 A. Well, I'm a -- I'm at 62, I have Fletcher
16 Williams. 67, I have F. -- Fletcher McClain. And that
17 may be -- and then you have Fletcher McNeil. You have
18 Fletcher Pugh. You have Fletcher Gatewood, Fletcher
19 George. So this -- this run may have been just with the
20 first name of Fletcher for individuals first name of
21 Fletcher, because that's what appears, not having gone
22 through all the documents, that you are now receiving --
23 everybody's receiving everybody in here has a first name
24 of Fletcher.

25 **Q. Okay. And then the list that you would -- put**

1 aside going through all the names, but it looks like
2 there's a lot more names than just five names in here,
3 correct?

4 A. There's more than that. And they appear at
5 this point to all be first name Fletcher. So that was
6 probably, I would surmise again, just me, that the
7 search was for first name of Fletcher.

8 Q. Okay. And then it indicates at the top that
9 there are five juvenile records listed in the report.
10 You see that?

11 A. That's what it says. Correct.

12 Q. Okay. So this is -- so given that there's
13 many more than five entries in here, does that give you
14 an indication about, I think you said earlier that this
15 was a report that was run for on a juvenile search?

16 A. Yeah, maybe it's just Fletcher first name,
17 juvenile and maybe they combined them.

18 Q. Okay. Okay. So there could -- it could be
19 more than just a search of juveniles?

20 A. It's possible. If it says five juvenile
21 records, although usually they would not combine
22 juvenile records with adult, but maybe back then they
23 still were. I -- I know there were separation at some
24 point made trying to keep juvenile records and stuff,
25 adult records separate. So maybe at that time you were

1 able to go into ICAM and just run Fletcher period. And
2 that might be why it does say five. So maybe only five
3 of these are juveniles and five are -- unless that means
4 current adults. Not sure. So I don't know. Appeared to
5 be Fletcher and it gave them both or they could have run
6 Fletcher and -- and it gave juvenile records but for
7 people that are now adults, I don't know. I'd have to
8 really go through this to determine that, but --

9 **Q. Okay.**

10 A. Here, the commonality here is running the
11 first name of Fletcher.

12 MR. SWAMINATHAN: And then let me show you a
13 document I've marked as Exhibit 4. Brian, this
14 is the printout, the criminal record search
15 printout. It's City JF 86 to 96.

16 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

17 MR. STEFANICH: You got it.

18 BY MR. SWAMINATHAN:

19 **Q. All right. Looking at Exhibit 4, what is this**
20 **document?**

21 A. This is a search off of a different database.
22 I believe it's the older database. The same one that we
23 would use as Soundex or Secretary of State inquiries or
24 LEADS in NCIC. I forgot the name of the particular
25 database. On there, they were, where you see IR 65, it

1 looks like they were searching, I don't know, by name or
2 whatever. Again, probably a Fletcher, but this was on -
3 - I'm trying to remember the name of the database. It
4 was an older system prior to ICAM or CRIS. And I think
5 it was still somewhat active at the time or -- or still
6 available to be searched.

7 **Q. So that was going to be my next question. So**
8 **this is a similar type of search to what was in Exhibit**
9 **3, correct?**

10 A. Right. But it was a older, from my
11 recollection, would be the older database and I forgot
12 what we call that, but it was a -- I think the original
13 thing was, like, HD00. And then from 00, you went to
14 other numbers, and then you can also search arrest
15 records on it. I'm trying to remember what the -- the
16 name of that database or what we called it anyway. I
17 don't know if it was the RAMIS database or -- well, it
18 couldn't have been just RAMIS. RAMIS was the old case
19 reporting system. So it might have been -- it was the
20 same database so that we can go in and run people for
21 driver's licenses or LEADS, stops, screening.

22 **Q. Okay.**

23 A. And also run, I believe, names and arrest
24 records and stuff. I -- I'm not positive. It's been a
25 long time.

1 Q. Okay. And this was an older system than the
2 ICAM version of --

3 A. I -- I believe, yes.

4 Q. Okay. And then -- so this would -- this
5 printout, do you know when -- does this thing, does it
6 indicate on here when this was print -- this was search
7 was done, or when this was printed out?

8 A. Not that I can immediately ascertain.

9 Q. And so is it your understanding that given
10 that this was the older system that this printout
11 would've been done at some point earlier than 1999 when
12 they were using the ICAM system at Exhibit 3?

13 A. By an older and earlier system, I mean, it was
14 a system that predated ICAM and CRIS and all that, but
15 they -- they -- they could have -- it still up and
16 running when --

17 Q. I see. Okay. It was still up and you can --
18 so they both were available.

19 A. They could have used this, and then on the
20 same day, run something in CRIS.

21 Q. I see.

22 A. Because I -- I mean, you're going -- and --
23 and again, I -- like with CRIS and ICAM, once those were
24 established, I -- I don't know how far back they went in
25 inputting information from prior and previous arrests,

1 and then if they went all the way back in perpetuity as
2 far as they could, and then the time it takes to do
3 that. So, you know, they may have started CRIS, and new
4 arrests were going directly into there, and information
5 from new arrests. But in the meantime, they were still
6 inputting past information as best they could into that
7 system. So it looks -- it appears that this was a
8 system that predated that, which was probably still able
9 to be searched at -- at this time, and maybe still
10 actively being updated. You know, I -- I can't say with
11 certainty. But I'm trying to remember the name of the -
12 - it was -- it was -- I still picture the old computers,
13 the big green-screen ones. You know, with this system,
14 there'd be, like, one in -- one in the unit that, you
15 know, you go and sit down at. It wasn't like a -- a
16 database where all computers were hooked up to it. You
17 would go to that one specific console to -- to do the
18 runs on there. Or, if you were in patrol over the air,
19 you can ask when they would name check people and stuff
20 like that. You know, for a does this guy have a
21 driver's license, et cetera, et cetera. Are there any
22 warrants -- warrants on this guy, or stops in effect,
23 stuff like that.

24 Q. Okay. And you see on some of these pages,
25 there's a little dot next to some of the names. Like,

1 on the first page, it has a dot next to Maurice
2 Fletcher. Second page has a dot next to Mose or Mose
3 Fletcher. Do you see that?

4 A. Yes. I see that.

5 Q. Yeah. And obviously that's handwritten,
6 that's not on the printout, but somebody put those
7 little markings on there, correct?

8 A. Well, all I'm looking at is a copy, but it
9 appears that, yeah, somebody put dots next to some of
10 these names.

11 Q. Okay.

12 A. Or that they highlighted them or whatever, for
13 lack of a better word.

14 Q. Do you have any understanding of why those
15 dots would've been placed next to some names?

16 A. No. I mean, other than Fletcher and -- you
17 know, they all have the name Fletcher, because some of
18 these have Fields, the name of Fields. They're not all
19 the Fletchers, but the -- there's some of the Fletchers.
20 All Fletchers, not every Fletcher that's on here, but
21 they are all Fletchers.

22 Q. Okay. And then could this -- from this
23 system, if you had identified, could you identify
24 specific individuals out of this list, and then click on
25 these particular individuals to get arrest photos or

1 **arrest information?**

2 A. No. On this database, from what I recall,
3 like, say, for example, let me just go to one of the
4 first pages, like that very first one, like Maurice
5 Fletcher.

6 **Q. Yeah.**

7 A. You know, this is probably, like, when you're
8 tradition -- transitioning just from paper to
9 computerized. So what you would have to do to get
10 information on Maurice Fletcher is, you know, now you
11 write down the IR, 581033. You want to get photos, you
12 go and request those photos, or if it was at a stage
13 where the ICAM was now up and running also, and you can
14 run that in there, fine. Or the arrest record. It's
15 not like in this particular database, now you -- you
16 highlight Maurice Fletcher, and it gives you more
17 information on him. Now, it's -- it -- the information
18 availability was pretty much what was there, and then
19 you would -- you would have to take it further by either
20 going to another database, going to Ident, you know, to
21 further identify or get arrest records or more
22 information on that person.

23 **Q. Okay. So this system would really just**
24 **connect the name --**

25 A. And I -- I mean, you could -- you could click

1 over to another screen now that you have a date of
2 birth, and run them for a driver's license. See what
3 address he has on the driver's license if he has one.

4 **Q. Okay.**

5 A. That would be on this same database, but a
6 totally different screen. So you'd have to scribble
7 down, okay, Maurice Fletcher, 2 January '62, put that
8 into the other -- that -- you know, the other, for lack
9 of a better word, section of this database to pull that
10 information up. But this was not that advanced by any
11 means where you could just click on it and -- and pull
12 up more information. Not a hot desk. I was trying to
13 remember what we called it. So we would call this the
14 hot desk. So I'd go to the hot desk. I could run,
15 like, this. On the hot desk, I could run Secretary of
16 State. On the hot desk, I could run LEADS. And there
17 was other stuff, I was not as well versed. We had some
18 sergeants that were really, really good with that
19 system. But the main things on that, we did. That's I
20 was trying to remember yesterday what we called it, we
21 called it the hot desk.

22 **Q. Okay.**

23 A. Even in patrol, you would say, can you run one
24 on a hot desk for me? And this is the database that
25 they would utilize.

1 MR. SWAMINATHAN: Let me put that one for the
2 side. Let me ask you about this one. Right.
3 Let me do this first. Okay. I'm going to -- I -
4 - I'm going to -- this is going to be the City JF
5 97.

6 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

7 MR. STEFANICH: All right. We got it.

8 BY MR. SWAMINATHAN:

9 Q. Okay. Exhibit 5, I -- I'm showing you
10 document marked Exhibit 5. It's City JF 97.

11 A. Yes.

12 Q. In the top it says, "It's a stop order or
13 cancellation request." So can you explain to me what is
14 a stop order or cancellation request?

15 A. Yeah. Stop order was a -- a way -- a -- a
16 vehicle that we would use in if there's somebody we
17 wanted to talk to, be it a victim, witness, suspect, or
18 identified offender, and even persons with warrants. We
19 would put it -- fill out the stop order request form.
20 That would go down to Ident. And if the individual that
21 we're looking for, wanted to speak to, or whatever,
22 would be arrested, be it a fingerprint, a -- a clearing,
23 and then they would see the IR would match, then they
24 would contact the area to let the specific detective
25 know that, hey, this person that you wanted to speak to

1 or that you have a warrant for is now under arrest. So
2 it wasn't done by -- by name, it was done by fingerprint
3 classification. So in other words, if -- for -- here
4 they put it in for Terry Rogers. If Terry Rogers was
5 stopped for traffic on the street, and they ran his
6 name, stop order would not show -- would, you know,
7 wouldn't indicate because it was only on the fingerprint
8 classification. So if he was -- it would have to be
9 somebody being taken into custody for an offense, then
10 the stop order would -- we call it stop order would hit,
11 and the detectives who put it in, or the area where the
12 detectives were, would be notified that that person is
13 in custody. So if you look at the top, you have record
14 stop, computer stop, which is -- which is LEADS,
15 computer stop, NCIC. And you'd also use this form to
16 cancel a stop order. So now if Terry Jones got arrested
17 for a narcotics violation, in this case, they would
18 contact Area 5. Ident would say, look, this guy is in
19 custody at whatever, 11th -- in the 11th District for
20 narcotics, and Bogucki and Schalk have a stop order for
21 him. So they would either -- Bogucki and Schalk were
22 working, they'd let them know, or contact them on the
23 phone and let them know, or assign somebody else to
24 determine why they wanted -- why they had the stop order
25 in there, and then to -- to, you know, further the

1 investigation. So a record stop would be just for that.
2 So to notify that the person is in custody. You can --
3 the computer stops the two of them, LEADS and NCIC, you
4 can only check off if there was active warrants. But
5 now if, in addition to -- we -- we -- we had a warrant,
6 then, you know, that stop would be put into that
7 database. So if he is fingerprinted in, say, Florida,
8 you know, it would then -- their system would hit on
9 that LEADS in NCIC, I say -- or the City of Chicago is
10 looking for this guy, they have an active warrant for
11 him for whatever, murder or whatever, then he would be
12 held there and we would be contacted, let him know, hey,
13 he's in custody in Florida.

14 Q. So basically the record stop means that this
15 is really just a request within the Chicago Police
16 Department system rather than a national system.

17 A. Correct. Yeah.

18 Q. Okay. And then -- and what this means -- so
19 this is really an indication -- okay. This tells other
20 people in the police department, hey, if you happen --
21 if you arrest this guy, I want you to know that I need
22 to talk to this guy.

23 A. Well, this form would go and would only -- it
24 would go to Ident. Now, unless a detective told a tact,
25 hey, we got a stop order on Terry Rogers, if you see

1 him, you know, we want to talk to him. You know what I
2 mean? But this was meant only to be attached and
3 notifications to be made if the person was in custody.
4 Because the only way the stop order would -- would --
5 would come to an alert or come to -- would be by
6 fingerprints.

7 Q. I see.

8 A. So it's not a stop order under the name Terry
9 Rogers. The stop order would be under his fingerprint
10 classification.

11 Q. Related to his IR number?

12 A. Correct.

13 Q. Correct. Okay. And so this particular stop
14 order was for Terry Rogers and it was issued by Bogucki
15 and Schalk on March 19, 1995, correct?

16 A. Correct.

17 Q. Okay.

18 A. And it was wanted for questioning. They
19 needed to speak to him regard -- regarding homicide.

20 Q. And what is the -- what is -- so I noticed
21 that it says "questioning only" in all caps. What did -
22 - what does that mean as a -- what was the other
23 possibility, that what else could be written there other
24 than "wanted for questioning only"?

25 A. Well, I -- well, again, there was no -- there

1 was no, like, specific verbiage delineated in any order
2 or anything. So in this case, I -- I think they were
3 being very -- you know, just to let everybody know or
4 Ident know that, hey, this guy is not a suspect in the
5 murder, he's not -- you know, he's not identified. Now
6 sometimes you can put it in for a suspect, you won't
7 check computer stop, LEADS, computer stop NCIC, because
8 we may have them identified, we may have probable cause
9 to hold them, but we don't have a warrant yet. So the
10 record stop can be checked, again, it could be checked
11 just for witnesses, for a victim. If you have a victim
12 that, say, two years ago, we got a warrant on a sexual
13 assault, well, that guy is in custody, we're trying to
14 find this victim, you know. You know, well, we may put
15 a stop order in just by that, and it may say it is
16 victim only. So I think they were being just very
17 cautious as they knew those guys to be there, and very -
18 - you know, by even -- they even capitalized questioning
19 only, so that it wouldn't appear that, you know, he was
20 a -- a -- a suspect in the case, or, you know, any other
21 reason.

22 Q. Okay. Let me show you a document I'm marking
23 as Exhibit 6.

24 (EXHIBIT 6 MARKED FOR IDENTIFICATION)

25 MR. SWAMINATHAN: Brian, this will be JF as -- be

the number 52.

MR. STEFANICH: Got it.

BY MR. SWAMINATHAN:

Q. Okay. This is -- I'm showing you a document I've marked Exhibit 6. It's City JF 52. This appears to be a general progress report, correct?

A. Correct.

Q. And this particular one was -- appears to have been written by Detective Bogucki, correct?

A. Correct.

Q. Okay. And this -- and we often see GPRs that are handwritten, but in this particular case, it was typed, correct?

A. Correct.

Q. Anything unusual about that?

A. Not at all, no.

Q. Okay. All right.

A. As I said -- and I -- like, I explained you on Tuesday that sometimes, you know, they will type out a - a GPR. They may have typed it in there, so they're putting it in the -- in here, and -- and maybe because they haven't formalized their supp yet, but they'd wanted to get it into -- into the record or into the file just in case. But the -- it's not unusual for this to -- to be used for, you know, a typewritten

1 information. And you might even find -- and I don't
2 know in this case, but it might be the exact verbiage
3 that's in the supp, it might have been later, or, like I
4 told you on Tuesday, it -- sometimes they would say - -
5 in the supp they might say, "We re-interviewed Edward
6 Cooper. See GPR for details." That could be the case
7 here, too. I don't know.

8 Q. Okay. In this -- first of all, was -- this is
9 an interview of Mr. Edward Cooper. Did you participate
10 in any interviews of Edward Cooper?

11 A. Not that I ascertained from my review of what
12 I did review, and I did not review this prior to now,
13 and I don't think I had anything at all doing any of the
14 interviews on this case.

15 Q. Okay. And so you don't have any memory of
16 ever interviewing somebody named Edward Cooper, correct?

17 A. As I sit here now, that's correct.

18 Q. Okay. And you haven't reviewed -- and there's
19 nothing that you reviewed from the investigative file
20 that indicated to you that you participated in any
21 interviews with Edward Cooper, correct?

22 A. Well, I didn't go through every document in
23 the file. I -- I scanned through them, and I picked
24 out, and then I reviewed the closing supp and the lineup
25 supp, but I did not see anything else. I -- I believe

1 maybe I did -- I don't know if there was a -- one
2 inventory that I signed the inventory slip on. But
3 other than that, I did not see anything. I don't recall
4 any involvement in this case, and nothing is reflected
5 in the documents other than that I -- they had to review
6 the closing clear -- cleared open report, and the lineup
7 report, and possibly one inventory that I saw.

8 Q. Okay. This document -- this e-mail -- oh,
9 sorry, this GPR, in the beginning it lists that
10 Detectives Rutherford and McDonald learned about a
11 subject named Fletcher Clinton who lived in the area of
12 the intended victim, Edward Cooper. Do you see that?

13 A. Correct.

14 Q. Rutherford and McDonald, were they working in
15 Violent Crimes at that time, or were they working in the
16 cold case unit?

17 A. No, they were in Area 5 Violent Crimes. That
18 they were never, as far as I know, at cold -- at the
19 cold case unit.

20 Q. And then it indicates Clinton's name was
21 obtained through a RAMIS check of Fletcher's. Do you
22 see that?

23 A. Correct.

24 Q. Okay. So the RAMIS check, is that -- does
25 that match up with either of those two printouts that we

1 looked at earlier?

2 A. That may be the -- one of the -- what I was
3 calling the hot desk database. RAMIS was information
4 that you can pull from old handwritten case reports that
5 was put into that hot desk.

6 Q. I see. So that --

7 A. I'm trying --

8 Q. -- would be the --

9 A. I'm trying to remember the -- like -- like,
10 for some of it would be -- HD80 would be the main one,
11 like, for SOS, NCIC, and I don't remember the RAMIS. I
12 -- I was never good at RAMIS. Sergeant Biebel was the
13 one that we would normally go to, because he was able to
14 -- he -- he was -- on his own, he learned how to access,
15 what was really an administrative -- RAMIS was really
16 administrative. I meant -- I think to help with the UCR
17 reporting, or the uniform -- Uniform Crime Reporting
18 with the FBI. But at some point, somebody realized,
19 hey, there -- there's information in there that we can -
20 - can help us in our investigations, and Biebel was very
21 sharp in that way, and I think he was one of them that
22 realized, hey, even though it's just an administrative
23 thing where the civilians are putting -- punching in
24 information from our paper case reports, and used for
25 UCR, that I can -- and being Biebel, we can access some

1 stuff that may help us. So when they say RAMIS, that's
2 what they're talking about, and it's obviously ran
3 Fletcher's, and that might be what is -- are on that
4 report that you're showing me earlier off, the -- the
5 hot desk printout.

6 Q. Okay. So the RAMIS check might be this
7 document that's on the screen here, Exhibit 4, that --
8 that's your recollection?

9 A. That could be the RAMIS report.

10 Q. Okay.

11 A. I'm not positive what the -- I don't remember
12 exactly, you know, how they looked when you printed them
13 out, you know. I think with that one, you would - - it
14 would just be like a screen print. It was showing up on
15 that screen, that old green-type screen would maybe
16 print that screen, and then the next screen, and the
17 next screen, but I'm not positive. Well, RAMIS was a
18 database that was an administrative tolling and
19 function, it wasn't designed for investigative purposes,
20 --

21 Q. Okay.

22 A. -- but there was things that could be utilized
23 in there to help.

24 Q. Okay. And then it looks like what this is
25 saying is they did an IR check for Fletcher on Fletcher

1 Clinton, and learned -- and were able to get some
2 information about his arrest history, correct?

3 A. Yeah. Looks like they ran RAMIS, probably
4 checked into those Fletcher, anybody named Fletcher,
5 from that they saw Fletcher Clinton, then got an IR
6 check, and yes, determined that he had UEW, robbery, and
7 drug arrests, and that he was currently in custody in
8 Taylorville in IDOC.

9 Q. So an IR check means -- is that what we looked
10 at before, where you -- you're basically pulling the --
11 an arrest history for somebody from, I think, an -- in a
12 request from the identification section?

13 A. First, you run them, determine that that
14 individual has an IR, then request his arrest record
15 based on that IR.

16 Q. Okay. And then it says that Fletcher Clinton
17 was shown a photo show-up. What is a photo show-up?

18 MR. STEFANICH: Objection. Form. Foundation.

19 THE WITNESS: Okay. Let me just read this here.

20 That's what it says. It says, "A photo of
21 Clinton was obtained, and a photo show-up was
22 conducted at the home of Edward Cooper." Cooper
23 did not pick the photo of Clinton.

24 BY MR. SWAMINATHAN:

25 Q. So -- and what is a photo show-up?

MR. STEFANICH: Objection. Form. Foundation.

THE WITNESS: Well, I don't know the terminology. I know when you do a show-up on the street, like, a crime happens, and two blocks down officers see a person matching the description that was put over the air, they bring them, and because of the short duration of time, you can bring that individual back to your victim or your witness, and just do a show-up, which is pretty much like a one-on-one, hey, is this the guy? And, you know, that would hold up in court. Now, when they say photo show-up here, I don't know mean -- if they meant array, I don't -- don't know if they meant just showing the one photo, which I don't think -- I think they would've shown more than one. I'm not sure. It looked to me like this really meant array because they did not pick the photo of Clinton. So by saying it, it would be like he had options to pick from, being Cooper, and he did not identify Clinton. So it appears that --

BY MR. SWAMINATHAN:

Q. So did you -- okay.

A. It appears that -- again, I -- I wasn't there, I wasn't part of this. And based on the reading here, I

1 would read it to be that they just used the terminology
2 photo show-up, and may have -- may have showed them an
3 array that was negative.

4 Q. And if it had been a -- if -- so if they were
5 going to show a photo of Fletcher Clinton to Mr. Cooper,
6 it should have been done as part of a photo array,
7 correct?

8 A. Well, I'd have to go through the file. Unless,
9 you know, they had reason to believe that Cooper may
10 have had an association with, or may have seen him
11 several times prior, or know him further than beyond
12 just some guy that he had never seen before, I don't
13 think they would've done a one-on-one. So I can't state
14 that with certainty because I don't know the
15 relationship between Cooper and Clinton, and -- but I --
16 I believe it would've been a negative photo spread.

17 Q. Okay. And so if -- yeah, typically, and --
18 strike that. When officers were conducting an
19 identification procedure with the witness, who didn't
20 have, you know, personal familiarity with the suspect,
21 that should be done in a photo array, not as a single
22 photo, correct?

23 A. That's your best evidence.

24 Q. Okay.

25 A. So can't say it -- it can't, if they did that.

1 And then it would -- again, it -- it would be up -- a --
2 a -- be determined by anybody beyond us, the -- the --
3 you know, the validity of that identification, or the
4 weight to put on it. However, in general, and best
5 practice would be, if there was no relationship, or you
6 have a doubt, or you're not certain, best to do the
7 photo array, and that's what it sounds like was probably
8 done here, it was just that it was a negative photo
9 array.

10 Q. And any --

11 A. You know, all the photo show-up, just
12 terminology. I don't know that they meant show-up, per
13 se. I never heard the photo show-up being done.
14 Show-up, again, I guess, that technically used in legal
15 way would be, you know, a live show-up immediately or
16 shortly thereafter a crime was committed.

17 Q. And you say you've never heard -- you --
18 you've heard that there's a very unique circumstance in
19 which live show-ups can be conducted, correct?

20 A. Well, it's not -- well, in -- in that, yes. If
21 -- okay. So if, like I said, a shooting happens,
22 witnesses -- responding officers respond to the shots
23 fired, they get there, the witnesses say, yeah, it was a
24 guy wearing a black and yellow, a male Hispanic, red gym
25 shoes, and he ran that way. They put it over the air,

1 officers up in the direction where the guy ran, see a
2 guy matching that description, running, same clothing,
3 you know, whatever, they stop him, and it's two minutes
4 after the shooting. I mean, there is no time -- exact
5 time. Again, that's to be determined later. But -- and
6 -- and they bring them back, and the witness say, yeah,
7 that's the guy. That identification, again, it'd be
8 subject to challenge maybe by his attorney, but that
9 would hold up as -- and what -- what you call as
10 show-up, and would hold up in court. Now, if it's the
11 next day and officers find a guy wearing exact clothes
12 matching the description and they think, well, Maniac
13 Latin Disciple was shot, this guy is Latin King based on
14 the colors. Let's throw him in a car. They go back to
15 the neighborhood where the shooting was, and, oh,
16 there's Pookie. Pookie saw the shooting. Hey, man, is
17 this the guy? No. Then you would want to do a physical
18 lineup with other fillers in there.

19 **Q. Okay.**

20 A. So there -- there's no exact time. The law
21 doesn't state five minutes after the incident, ten
22 minutes after the incident. It's case by case, you
23 know, is how that determination is made. You know what
24 I mean?

25 **Q. Okay. And that example for live show-ups.**

1 There's no example for photo show-ups where you'd
2 show-up and just show a single photo of the guy?

3 A. Not that I'm aware of. I'm not saying that,
4 you know -- and I -- I think that would be -- no, not
5 that I'm aware of.

6 Q. Okay. And then, in this case, the -- oh,
7 sorry. I think we had -- and may -- I think I asked you
8 this before, I'm not sure. So let me just ask it. When
9 any time they -- any time photos are shown to the
10 witness, that should be documented, correct?

11 A. Correct.

12 Q. Okay. And that's what happened here, they
13 documented that they showed photos to Mr. Cooper,
14 correct?

15 A. Yeah, like I said, it appears that their
16 documentation, a lot are using the word show-up, I -- I
17 -- it -- it appears that they showed a -- a compilation
18 or an array, whatever you'd like to call it. Including
19 --

20 Q. And even if the photo array result -- I'm
21 sorry, go ahead.

22 A. Including Clinton to Cooper.

23 Q. And even though the identification procedure
24 resulted in a negative identification in this case, or a
25 lack of an identification, that's still to be

1 documented, correct?

2 A. Yeah. And they -- they did document it here,
3 correct.

4 Q. And then the photos of this photo array, those
5 should also be kept in inventory, correct?

6 MR. STEFANICH: Objection. Form. Foundation.

7 THE WITNESS: Okay. I'd have to look at -- going
8 back in time, I don't know what it is today. I -
9 - well, obviously today is different because
10 they're -- when I left, they were veering towards
11 not even doing physical lineups, but at -- it was
12 a time when you only had to document the
13 negative. So like if you had a negative physical
14 lineup, there was no need to photograph it. You
15 would just document the negative physical lineup.
16 So, you know, same as with photos, if you had a
17 negative, you would document the negative lineup.
18 And I -- I don't recall when it evolved that, you
19 know, you should inventory, they wanted to do an
20 inventory negative photo spreads, it was just
21 documentation that a negative spread was shown.
22 And here they're saying that, yeah, we showed
23 them Clinton, with obviously fillers, what
24 would've been fillers, or some other photos. And
25 Clinton, being Edward Clinton, male, Black, 38, 6

1 April '52, at 1435 North Luna. I'm sorry.

2 That's Cooper. I'm sorry. So whatever Clinton's
3 identifiers were, that -- that Clinton was not
4 identified. I was going to say --

5 BY MR. SWAMINATHAN:

6 Q. And so is it --

7 A. -- Fletcher Clinton was not -- Fletcher
8 Clinton, referred to by Rutherford and McDonald, was not
9 identified.

10 Q. And so is it your testimony that, in 1995,
11 detectives could create a photo array, show it to a
12 witness, and if there was a negative identification,
13 they could destroy the photos rather than preserve them
14 in the investigative file?

15 MR. STEFANICH: Objection. Form. Foundation.
16 Misstates his testimony.

17 THE WITNESS: Okay. I -- I don't know exactly
18 when I -- I said that, at certain time, it --
19 things changed where, you know, it was requested
20 and whatever, that we inventoried the photos,
21 negative or positive. But times until that change
22 was made, anything negative was only stated that
23 it'd be documented, that the negative was shown
24 via the negative lineup, physical lineup, or
25 negative photo spread.

1 BY MR. SWAMINATHAN:

2 Q. So I know there was a point in time when, for
3 lineups -- well, there was a point in -- there was a
4 period of time when, if the lineup resulted in no
5 identification, you didn't have to have the evidence
6 technician come out and photograph the negative
7 identification. Does that sound right to you?

8 A. Yes, that's correct.

9 Q. Okay. And then that eventually changed,
10 right?

11 A. I'm not sure where they're at now. I don't
12 recall what exactly -- if -- if we had to photograph the
13 negatives, and when that evolved into -- I've been away
14 for a while, I'm trying to remember how things evolved,
15 --

16 Q. Yeah.

17 A. -- but I know, early on, negative lineups, no
18 need to photograph. So if you look at it that way, if
19 you're not preserving a photo of individuals standing a
20 lineup, then would you have to preserve the photo of
21 individuals in a negative photo array? I mean, I --
22 like I -- like you said, things evolved. I don't know
23 the exact duration in time, or when they -- things
24 evolved, but I do know that, for negative things, it was
25 document, not necessarily inventory or portal.

1 Q. If, for example, Jimmy Fletcher had been -- or
2 James Fletcher had been included as a filler in this
3 photo array, in which Clinton didn't identify anybody,
4 that would be important information for James Fletcher,
5 correct?

6 MR. STEFANICH: Object. Form. Foundation.

7 Incomplete hypothetical. You may answer.

8 THE WITNESS: If he was, I -- and if -- oh,
9 although I -- I don't think it was because they
10 here had received information of a particular
11 Fletcher that lived in the area, and check in
12 with his history with the UEW, being a gun, just
13 like a gun used in a homicide, the robbery, the
14 drug arrests, then they specifically showed that
15 photo with -- and I -- I'd -- it doesn't state in
16 here that they put him with four other Fletchers,
17 or one other Fletcher, and I believe they would
18 have, had they done that. I -- I just think they
19 just went, based on the information from
20 Rutherford and McDonald, identified that person,
21 got his picture, put it with fillers, showed it,
22 it was negative, and they -- they did document
23 that the photo of that particular individual was
24 negative. If they had --

25 BY MR. SWAMINATHAN:

1 **Q. Did they --**

2 A. If they -- if they had -- say, they had just
3 gone in, and let's get -- let's just try everybody named
4 a Fletcher, and show it to them, and they documented all
5 the Fletchers, you know, and it was negative, say, five
6 or six Fletchers, and it was negative, but there -- it
7 was -- it was a -- a Hail Mary, for lack of a better
8 word, you know, just to try something because nothing
9 else was going on it. I think they would've -- you
10 know, they may have documented all of them, but it was
11 negative, regardless. So -- so my understanding reading
12 this, or my assumption, is that it was one, for lack of
13 a better word, suspect or potential offender with
14 fillers, that they called it a show-up, although it was
15 a spread, and that he did not pick -- pick that specific
16 individual who they named, and said he did not pick
17 them, that it was negative.

18 **Q. Do you know who the fillers were in this photo**
19 **array that resulted in a negative identification?**

20 A. Were what?

21 **Q. Do you know who the fillers were that were**
22 **used in this identification procedure?**

23 A. No, I don't. It doesn't state.

24 **Q. Okay. Okay. And then the next thing that's**
25 **in here is that Mr. Cooper indicated that he believed**

1 Terry Rogers had set them up. You see that?

2 A. It says -- well, that's not the next thing.
3 There is another line after that. It says --

4 Q. Yeah.

5 A. -- "Cooper appeared to still be cooperative
6 and stated he believed he still could identify the
7 offenders. Cooper went on to say that he believed that
8 Terry Rogers had set him up. He stated that he was
9 friends of Rogers' family. He had heard that Rogers had
10 a bad drug habit and would do almost anything for
11 money." In parentheses they have, "he has a five-page
12 sheet."

13 Q. And this is the -- and this is a GPR that was
14 written on March 19, 1990 -- March 19, 1995, correct?

15 A. Correct.

16 Q. Okay. So then we looked earlier at Exhibit 6,
17 which was the -- Exhibit 5, which was the stop order. So
18 on the same day, after Cooper had said this to them, it
19 looks like they got -- put out a stop order on Rogers,
20 correct?

21 A. Well, actually it would be the same day
22 because it's showing the stop order date of -- if you're
23 looking at 97, I don't have a stamp --

24 Q. Yeah, I think that's what I said, right? Same
25 -- maybe I misspoke. The -- so it looks like they spoke

1 with Cooper on March --

2 A. I think they -- yeah, then they put in a
3 alert, or not -- a stop order, record stop order, wanted
4 for questioning only for Terry Rogers.

5 MR. SWAMINATHAN: Okay. You can put this to the
6 side. And then I'm showing you a document marked
7 Exhibit 7. This is 134 -- City JF 134 to 135.

8 (EXHIBIT 7 MARKED FOR IDENTIFICATION)

9 BY MR. SWAMINATHAN:

10 Q. And this is the -- what -- at the top of the
11 page it says, "Investigative alert." You see that?

12 MR. STEFANICH: Yeah, give us a second.

13 MR. SWAMINATHAN: Are you grabbing it, Brian?

14 MR. STEFANICH: Okay. He's got it.

15 THE WITNESS: Okay. Is that the 134?

16 BY MR. SWAMINATHAN:

17 Q. Yeah.

18 A. 134 to 135? Yes.

19 Q. Yeah. This is a -- an investigative alert.
20 Can you tell me what that is?

21 A. Investigative alerts evolved -- they were
22 predated and probably overflowed, or whatever, with stop
23 orders. So initially the stop orders, like I said,
24 would only hit, for lack of a better word, or you'd be
25 notified if the person was taken in custody. Because the

1 stop order, the record stop, would only attach when
2 somebody was fingerprinted. So it would attach to his
3 IR number. So it came to a point where it -- to assist
4 in investigations and otherwise, they evolved into the
5 start of what they called investigative alerts. So now,
6 for example, if you take Rogers, instead of -- and --
7 and say Rogers had been stopped on the street, name
8 checked. He gave his real name. He was name checked
9 over the air through the hot desk, and it would come
10 back no wants, no warrants, you know, et cetera, et
11 cetera. And he would go on his way. If -- with the
12 investigative alert, it would attach now both to the IR
13 and the name. So if Rogers was walking down the street
14 and an alert was in, and a patrolman ran his name and he
15 gave his proper name, as -- as you have in the alert
16 itself, you know, then they would say, yeah, they would
17 notify the patrolman, it appears that Bogucki and Schalk
18 at Area 5 would like to speak to this guy. You know,
19 every -- the officer asks, whatever, they maybe say,
20 regarding a homicide or whatever. So -- but it would be
21 probable cause or no probable cause. So on the
22 investigative alert, you have to say, is there a
23 probable cause to arrest or not? Well, on the case of
24 one where they -- where they had put in bold,
25 "questioning only," obviously that would be a no

1 probable cause alert, so they would let the -- the --
2 the -- dispatch would let the officer know that, yeah, a
3 detective 5 -- a detective in Area 5 would like to speak
4 to them. However, there's no probable cause to arrest
5 them. So if they have nothing, you know, they don't
6 have him with a bag of weed, they don't have him
7 dropping anything, he's not in custody, he -- or if it's
8 traffic and he does have driver's license, there's
9 nothing that they're going to -- they can then request
10 of him, hey, we have -- you know, your name reveals that
11 detectives would like to talk to you about a case. Are
12 you willing to come in or not? And if he says yes, then
13 they can bring him in or follow him in or whatever. If
14 he says no, then they have no cause to hold him. You
15 know, they can't come back later and say, hey -- or call
16 Area 5 and say, hey, look, that guy that they were
17 looking to talk to, we had just stopped him. Just so
18 you're aware, he was in town. He was driving a car like
19 this. He's around.

20 Q. Okay.

21 A. Now, if there's probable cause to arrest, then
22 you can check that. And again, so it -- it gave us the
23 greater tool now of being able to locate and possibly
24 speak to people or have people arrested based on, you
25 know, names. You know?

1 Q. Yeah.

2 A. Names or --

3 Q. So the investigative alert and stop order
4 served similar purposes, but they were slightly
5 different in terms of how they could trigger, you know,
6 a flag that this person wanted to be spoken to by a
7 detective?

8 A. Correctly. Correct, yeah.

9 Q. Okay. And in this -- so it looks like this
10 was on -- so this particular investigative alert in
11 Exhibit 7 is for the same individual, Terry Rogers,
12 correct?

13 A. Correct.

14 Q. And it was requested on March 19, 1995?

15 A. Double check -- let me just double check the
16 IR to make sure it is the same.

17 Q. Yeah.

18 A. I don't know where they -- so -- yes, it is
19 the same individual.

20 Q. Okay. And this was also issued -- this was a
21 -- this investigative alert was entered on March 19,
22 1995, correct?

23 A. Correct.

24 Q. Okay. So basically, it looks like on March
25 19, 1995, after speaking with Cooper, who said that he

1 believed Terry Rogers was involved, then Bogucki and
2 Schalk basically entered a stop order and an
3 investigative alert for Terry Rogers on the same day,
4 correct?

5 A. I -- I can't say that because -- here's the
6 problem we have with that is, this was during a time
7 when we were transitioning or we still had stop orders
8 in effect. You're talking about the 19th, the 19th, and
9 the 19th -- on -- on the stop order 19th on this. I do
10 know that -- I do recall that when we were transitioning
11 from stop orders to alerts, at some point,
12 administratively, civilians, I believe, were then going
13 back to the stop orders that were in effect and
14 inputting those into the alert system. So in other
15 words, to capture all predating wanted for questionings
16 or wanted on a warrant or -- or arrest, looking to
17 arrest, they -- so Bogucki and Schalk may not have
18 necessarily -- because I -- I find it -- if you look at
19 the top two where it says 19 March, '95, I -- I think
20 that -- and when you say 00:00 hours, you know, that
21 would have to be right at the stroke of midnight on the
22 19th of March. I believe this was one where civilians
23 or maybe officers that were, you know, in a civilian
24 capacity at the time, were now catching up and loading
25 up the investigative alerts system by going back to stop

1 orders. So their request date would be the request date
2 of the stop order, a particular stop order they're
3 looking at. And Bogucki and Schalk may or may not have
4 input it on a date. I don't know. Because I do know
5 that they were going back in time to try to load up the
6 investigative alerts system with active stop orders.

7 **Q. Okay.**

8 A. So I can't say with certainty that Bogucki and
9 Schalk put this in on that date. It may been input into
10 the investigative alerts system a month later, two
11 months later, but to reflect that, the civilian or
12 whoever may have put that 19 March 00:00 time, which is
13 kind of odd to me, you know? But I do remember there
14 was a time where, when that transition was being made,
15 they were loading up, you know, loading stop orders into
16 the investigative alerts system because that was going
17 to be -- stop orders were no longer going to be used.

18 **Q. So the -- so your understanding is that either**
19 **Bogucki and Schalk created this investigative alert on**
20 **the 19th, or a civilian person or somebody else entered**
21 **it later on based on the existing stop order from the**
22 **19th, correct?**

23 A. Well, more so that it was entered later. But
24 it's possible they, at the stroke of midnight, they --
25 but I -- I believe -- my belief as I sit here now is

1 that this was one of those that was where they went back
2 in time to get the stop orders into the alert system
3 because of how --

4 **Q. And this one -- this investigative alert**
5 **indicates that it's -- that there was probable cause for**
6 **arrest, correct?**

7 A. Yes. And it also --

8 **Q. And they --**

9 A. -- says it's expired on here, which doesn't
10 make sense to me either. Why would Bogucki and Schalk
11 enter -- expire an investigative alert and put a stop
12 order where the investigative alerts were the new way?
13 See, that's why I'm telling you, I think that this was
14 just civilians going back in time and punching it in,
15 just to get the bare bones information in there.
16 Because, number one, in the stop order submitted on the
17 19th, with a signature from Bogucki, it says
18 "Questioning only." And like I said, they highlighted
19 it in bold. No probable cause existed. And I don't
20 think they -- they would have put that in there, you
21 know? So I believe this is just somebody loading up the
22 investigative alert system with stop orders that
23 predated, you know, the system. Because why would they
24 expire an alert that they just put in on the same day?

25 **Q. Yeah, that's what I was going to ask you. I**

1 mean, if you printed -- if the -- if you put it in on
2 the 19th and then three months later it expired and you
3 printed it out some time after that, it's going to
4 indicate that it was requested on the 19th and it's
5 going to indicate that it's expired, correct?

6 A. Well, yeah. Well, what is the date of -- you
7 know, I don't know what date -- yeah. Well, no, that
8 would happen. You -- you are correct. They would fall
9 to --

10 Q. So if this was just printed some time later,
11 but --

12 A. Then you should have a -- so the report you're
13 giving me here is the expired. Then there should be one
14 where it was input and then there was -- should be a --
15 a sergeant would have to expire it. So there should be
16 other ones prior to the status of expired. There should
17 be a status of active, which I don't know if you have
18 that there or not. But I'm telling you that I remember
19 that when we were transitioning, and obviously we were
20 still using stop orders on the 19th of March, so --

21 Q. And so this one, I think you indicated there
22 was a period of time --

23 A. -- if they weren't using stop orders, that
24 wouldn't exist. That has his signature on there. I
25 believe that this was probably input into the system

1 some time after. And maybe when he -- anyway, it could
2 have been either way, but this is the expired one. So I
3 don't know if a detective or -- and the sergeant would
4 have had to expire it based on a request from Bogucki
5 and Schalk.

6 Q. So there would be a separate form, you're
7 saying, that it gets filled out to expire it?

8 A. Well, this one is expired. So --

9 Q. Yes.

10 A. -- the sergeant would expire it. So a
11 detective would request an alert. The sergeant would
12 have to approve the request, you know. Because
13 normally, our function then is, again, we're human, but
14 to review it and, you know -- so if Bogucki and Schalk
15 had accidentally -- I think the default was probably no
16 probable cause. I think you would have to hit probable
17 cause if I remember correctly. But the sergeant would
18 normally ask, okay, probable cause. Do you have
19 probable cause on this guy? Yes. And then the sergeant
20 could -- would make it an active alert. Then if the
21 person got picked up, you know, stopped on the street
22 and he willingly came in, he was interviewed, then
23 Bogucki and Schalk would put in that the alert be
24 expired and the sergeant would have to expire it. So
25 you had -- you know, you had to submit it for an

1 approval. The sergeant would review it and approve it,
2 which would make it active. You know what I mean? And
3 then you would have to let them know if you're going to
4 -- and over time eventually what did happen too, this
5 system got updated where every so often you would have
6 to renew an alert. So if alerts were active, the
7 sergeant would have to go back to the detective and say,
8 "Hey, do you want still want this alert in the system?"
9 And then it would -- they would have to -- if it expired
10 on its own, they would have to renew it. Or if you
11 interviewed them today and they expired it, but now
12 something comes up where somebody tells you, hey, you
13 know, gives you more information that you want to
14 re-interview that person, then they can renew it. So
15 anyway, this was at a time when there was a transition
16 being made. So I cannot state that they put it in --
17 they submitted an alert. Although this could be down
18 the road when -- I mean, I don't know. You'd have to
19 look at when was it -- the request first put in and when
20 was it approved by a sergeant.

21 Q. Okay. So if I'm understanding you correctly,
22 you're not sure when this was input into the system,
23 correct?

24 A. Correct.

25 Q. Okay. And eventually if this stop order

1 expired, if this was -- if this investigative alert was
2 printed out some time after it expired, this is exactly
3 what you'd expect it to look like, correct?

4 A. Yes.

5 Q. Okay.

6 A. So if it was expired and -- and it's in the
7 system and six months later you go to print it out,
8 it'll show that it is expired, correct.

9 Q. Exactly. Okay. And this lists -- so for
10 these investigative alerts, there -- you had to indicate
11 when you were seeking approval of the investigative
12 alert for it to be either listed as -- well, you had to
13 get approval for the investigative alert from a
14 sergeant, correct?

15 A. Well, yeah. You -- it would be just similar
16 to the CRIS system where you would submit it, and then
17 it would be in the system. So now a sergeant can go in
18 there. You could let them either know by paper or say,
19 hey, sergeant I got an alert in there. Can you take a
20 look at it? Or they would just sit down as course of
21 their administrative functions and go in and check for
22 alerts, and read them and approve them or reject.
23 Because maybe you were missing particular information,
24 or maybe it says probable cause, which -- but in your
25 narrative, it says questioning only. So in this one

1 here it again says, "the above subject is wanted for
2 questioning only in regards to the homicide which
3 occurred." But yet as -- as a sergeant, if I would have
4 caught it, I would say, well, what is it? Is it
5 probable cause or no probable cause? Because it says
6 questioning only. I would go talk to them. So I'd
7 probably have to reject it because either the, you know,
8 box was checked in error or whatever, if they did in
9 fact submit it. And, hey guys, you -- you have to
10 change it to no probable cause and then resubmit it, so
11 --

12 Q. So in this case, it's your -- you agree there
13 really was not probable cause to arrest?

14 A. I would agree based on my review of the
15 documents, correct.

16 Q. And this -- so this investigative alert
17 appears to be incorrect, correct, to list probable cause
18 for arrest?

19 A. In that box, I would say that's incorrect.

20 Q. Okay. And then putting aside the question of
21 probable cause or not is, at this point in -- on March
22 19, 1995, based on the stop order and the GPR and so on,
23 it looks like there's some indication that Bogucki and
24 Schalk are now investigating Terry Rogers as a potential
25 perpetrator of this crime; is that fair?

MR. STEFANICH: Objection. Form. Foundation.

Misstates the evidence. You can answer.

THE WITNESS: No. The only thing I'm -- I'm seeing is that they want to interview him regarding it. I don't see where there's any concrete information that he had any involvement in it. You know what I mean? I mean, there's one guy stating that he believes they may have set him up, but other than that, there's no indication that they were -- I don't think they had probable cause at that point. I think they were just looking to talk to him.

BY MR. SWAMINATHAN:

Q. Yeah. And I'm not saying probable cause, but was he --

A. Well, questioning --

Q. -- was he someone who should be treated as a suspect for a -- wanted for questioning?

A. Well --

MR. STEFANICH: Objection. Form. Misstates he testimony.

THE WITNESS: Well, those are two different things. Is, you know, a suspect wanted? You know, either you have probable cause or you don't. And in this one, I think when they're

1 saying questioning only and on the stop order
2 that they -- there is a signature on there. They
3 put on their record stop only, you know, so I
4 don't believe they're looking for -- they were
5 looking for him at that point as a suspect in
6 this.

7 MR. SWAMINATHAN: Okay.

8 THE WITNESS: That's, again, my interpretation.

9 MR. SWAMINATHAN: Okay. Ouch. Why don't we take
10 a quick break? We've been going a while. Oh,
11 well, why don't -- instead of saying quick break,
12 we could take a quick break, which I'm happy to
13 do and then -- and then go back on, or a full
14 full-on break for lunch, for a quick lunch. We
15 could do that, too. You tell me.

16 MR. STEFANICH: We're off, right?

17 THE WITNESS: Well, how much --

18 MR. SWAMINATHAN: Let's go off the record then.
19 Yeah.

20 THE WITNESS: Okay.

21 THE REPORTER: Off the record.

22 (OFF THE RECORD)

23 THE REPORTER: Back on record.

24 BY MR. SWAMINATHAN:

25 Q. All right. Mr. Wojcik, did you get a chance

1 to grab some lunch?

2 A. Yes, I did.

3 Q. Are you ready to keep going?

4 A. Yes.

5 Q. Okay. I'm going to show you a document I've
6 marked as Exhibit 8.

7 (EXHIBIT 8 MARKED FOR IDENTIFICATION)

8 BY MR. SWAMINATHAN:

9 Q. You see that on your screen there. It is C JF
10 129 to 130.

11 A. Okay. Got it.

12 Q. Okay. You got it in front of you?

13 A. Yes.

14 Q. Okay. So this appears to be an investigative
15 alert similar to the one we looked at earlier in Exhibit
16 7, correct?

17 A. That's correct.

18 Q. Okay. And this is actually listed as an
19 active investigative alert, correct?

20 A. That's correct.

21 Q. And this is an investigative alert for a man
22 named Emmett Wade, correct?

23 A. That's correct.

24 Q. And it indicates that the request for it --
25 the investigative alert was entered on March 17, 2002 at

1 17:26 p.m., correct?

2 A. That's correct.

3 Q. Okay. So -- and the person who requested this
4 investigative alert for Emmett Wade on March 17th was
5 Detective Schalk, correct?

6 A. That's correct.

7 Q. Okay. And there's a justification provided
8 for why they wanted to -- why they were putting out an
9 investigative alert for Emmett Wade, correct?

10 A. That's correct.

11 Q. Okay. And what was the justification that was
12 given for why they were doing the investigative alert?

13 A. It says, "The RDET," recording detective,
14 "wishes to interview Emmett Wade, who was a witness to
15 the 1990 homicide of Willie Sorrell, RD number N," like
16 Nora, "603937."

17 Q. Okay. And this indicates that it is -- there
18 was no probable cause for arrest then, correct?

19 A. That's correct.

20 Q. All right. And in this case, you would agree
21 it -- there was not probable cause to arrest? He was
22 just a witness, correct?

23 A. That's what it says in the document. That's
24 correct.

25 Q. Okay. So as of March 17, 2002, the detectives

1 were looking to speak with Emmett Wade based on this
2 investigative alert, correct?

3 A. Correct.

4 Q. Okay. And then how long does an investigative
5 alert like this last? So if this was entered on March
6 17, 2002, how long would it last for?

7 A. Well, it would last until it's either canceled
8 by the detective, so in other words, if they did
9 interview Mr. Wade, they would cancel the alert. And I
10 believe after -- I don't know if it was initially when
11 investigative alerts started or later where they put a
12 time -- some kind of time parameter on there where then
13 the sergeant would have to review them to make sure that
14 they still wanted them to be active so they didn't go,
15 like, into perpetuity.

16 Q. When you retired in 2016, did this
17 investigative alert system still exist?

18 A. Yes.

19 Q. And so if you wanted to go back and look at
20 old investigative alerts, you could just put in an RD
21 number on a case and pull all of the old investigative
22 alerts, correct?

23 A. I'm not sure if it is searchable that way,
24 although it would make sense that it should be.

25 Q. Okay. Okay. Oh, and then this one indicates

1 at the bottom -- you see where it says in handwriting at
2 the bottom of the first page, it says "Haas copy"?

3 A. Correct.

4 Q. What does it -- what do you understand that to
5 mean?

6 A. Well, that would be a copy for Kevin Haas to
7 include into the investigative file.

8 Q. Okay. And you and I talked about this on
9 Tuesday, but Kevin Haas was the one who would put
10 documents into the formal investigative file as they
11 were approved, correct?

12 A. Yeah, he was one of the -- again, it could be
13 done by anybody really. He was assigned to, for the
14 most part, oversee the homicide investigative files. So
15 that was his function. And then, like I said, there was
16 times people filled in for him, or there's no limit that
17 the sergeant or detectives involved couldn't put
18 documents into the file.

19 Q. Okay. And as documents went into the file,
20 they were to be added to the inventory, correct?

21 A. Correct.

22 Q. So this, in that indication where it says
23 "Haas copy," is an indication that a copy of this
24 investigative alert was provided to Haas, would have
25 been included in the inventory and in the investigative

1 file, correct?

2 A. Well, it -- it indicates that this was a copy
3 for Kevin Haas. Whether or not he received it or not, I
4 can't say. But that would be the idea behind it, yes.

5 MR. SWAMINATHAN: Okay. One second. Okay. We

6 can put that document to the side. All right.

7 Brian, I'm going to show him City JF 179 to 182.

8 (EXHIBIT 9 MARKED FOR IDENTIFICATION)

9 BY MR. SWAMINATHAN:

10 Q. All right. Mr. Wojcik, I'm showing you a
11 document I've marked Exhibit 9, City JF 179 to 182. Let
12 me know when you have that. Okay. And this is
13 basically four pages of GPRs, or general progress
14 reports, correct?

15 A. Correct.

16 Q. And there's handwriting on each of these
17 pages. Is any of the -- well, let me start with this.
18 Are any of the signatures on the bottom of these four
19 pages yours?

20 A. No, not that I -- no, not at all.

21 Q. Okay. And do you know who the sergeant is
22 that approved these GPRs? Can you tell?

23 A. Yeah. It looks like star maybe 1320 or 1322.

24 Q. Okay. And off the top of your head, you don't
25 know who that is?

1 A. I don't know. I don't know. I can't tell
2 immediately the sergeant.

3 Q. Okay. And then looking at the body of these
4 or the narrative, you know, middle section of each of
5 these GPRs, is any of the handwriting yours?

6 A. It does not appear to be at all, no.

7 Q. Okay. And then the headers on each of these
8 pages -- well, strike that. For the body of each of
9 these pages, do you recognize any of the handwriting to
10 be a particular person's handwriting?

11 A. I would say 179 appears to be Schalk's, just
12 from recollection and memory. 180 appears to be some
13 Schalk and possibly some Bogucki. 181 appears to be
14 mostly Schalk's, maybe all. I can't tell on that one
15 thing where it says "ASA Jennifer," whose that is, to be
16 honest with you. And on 182 appears to be mostly
17 Bogucki's. However, in the upper right of the
18 narrative, the body section at 2373805, 10:30 hours, and
19 then "Debra Asary, friend," that may be Schalk's.

20 Q. Okay.

21 A. And then also possibly the 21 December '90 on
22 the top and possibly to 5511. I -- I can't say for
23 certainty there. But most of it appears by far to be
24 Bogucki's, is what I believe.

25 Q. On that one. Okay. And so it sounds like on

1 some of these pages, like on that last page, it sounds
2 like a lot of the narrative section is -- it appears to
3 be Bogucki's handwriting, but the top in the header
4 maybe have actually been written by Schalk, correct?

5 A. Yeah. Well, that word homicide in the top
6 header on that 182 looks like Bogucki's.

7 Q. Okay.

8 A. Also, possibly that 21 December '90 and
9 possibly the 5511 beat unit sign looks like it may be
10 Schalk's. It's hard to tell with the "Sorrell" though.

11 Q. Okay. And I think we talked about this last
12 week or a couple days ago, but the information in the
13 headers, that's often filled in later before it's
14 submitted for approval, correct?

15 A. Well, or before it -- well, submitted for
16 receipt -- receipt by the sergeant. Sergeant receives
17 it, usually signs off and then makes -- makes sure that
18 it gets to the file. We try to make sure on all of them
19 that the headings and the -- most important thing is the
20 RD number. But we try to make sure the headings are
21 done. But like I said, at -- human nature, and at times
22 you'll find missing signatures. Sometimes they're in
23 the file, you know, without a sergeant's signature on
24 there. So -- but for the most part, yes, you would get
25 it, receive it, sign it, and -- and get it to, you know,

1 the bin for Kevin Haas or hand it to him or whatever,
2 just to make sure or to attempt to make sure it gets to
3 the file.

4 Q. So what you just did, what you were just
5 describing, is the process of what happens when these
6 detectives, they turn it into the sergeant. The
7 sergeant reviews it, signs off on it, and then passes it
8 on to Kevin Haas or whoever's maintaining the formal
9 inventory, correct?

10 A. Correct. Our main function there is to try,
11 again, we -- we err at times, but just to make sure that
12 the headings are there and that RD. For me, the most
13 important thing is the RD, to make sure it gets in
14 there, into the file.

15 Q. Okay. And then you -- and then I think the
16 part that I had asked about, maybe you had skipped past
17 where I was, but I was trying to understand if Bogucki
18 had written this GPR for the most part, but that the
19 dates on the top might have been written by Schalk, that
20 reflects the fact that often, you know, before it gets
21 submitted to the sergeant, detectives might add that --
22 the date and classification kind of information at the
23 top, correct?

24 A. Correct.

25 Q. So that often gets added -- like the

1 detectives, as they're writing their GPRs, they may
2 write it out and the top may be blank, but they'll fill
3 that in before they turn it in into the sergeant,
4 correct?

5 A. Well, that's the idea, yeah, to get it there.
6 And then like I said, sometimes we'll either see that
7 it's blank and fill it in ourselves, you know, if you
8 know what the RD is, or have -- send it back to them and
9 have them fill it out or somebody else working on the
10 case. So the big thing is the -- make sure it gets to
11 the proper file. That's the -- the whole thing.

12 Q. Okay.

13 A. That's the attempt.

14 MR. SWAMINATHAN: We can take that one down. All
15 right. I'm going to show you a document marked
16 Exhibit 10, and that's City JF 140 to 147.

17 Brian, it's the closing report.

18 (EXHIBIT 10 MARKED FOR IDENTIFICATION)

19 BY MR. SWAMINATHAN:

20 Q. All right. Mr. Wojcik, this is one of the
21 documents you reviewed in preparation for today's
22 deposition, correct?

23 A. Correct.

24 Q. Okay. And this is the closing report from the
25 Sorrell homicide investigation, correct?

A. Well, it's the cleared open report, correct.

Q. Cleared open. Thank you. Who were the reporting detectives on this?

A. Well, Ray Schalk submitted the report. The reporting detectives were Ray Schalk, Jerry/Jerome Bogucki, and Tony, or Anthony, Noradin.

Q. And as one reads one of these reports, there's references in the report throughout to R/DET. That refers to reporting detectives, correct?

A. Correct.

Q. Okay. And then if we -- who -- did you -- you approved this report, correct?

A. Correct.

Q. All right. And so this report was submitted by Detective Schalk on May 21st and approved by you on May 24th, correct?

A. That's correct.

Q. Okay. So when you approved this report, did you refer to any other documents as you went through this report before approving it?

A. I have no recollection at this time whether I did or not.

Q. Okay. What would've been your typical practice with a cleared open report like this in a homicide investigation? Would you usually refer to

1 other documents when you went through this before
2 approving it, or would you just look at the document
3 itself?

4 A. Well, that would depend on the -- not just the
5 case itself, but on the detectives involved, the -- the
6 amount of time I had, you know, on several factors
7 whether I did or not. If -- think like I might have
8 explained to you on Tuesday is that if they were
9 seasoned detectives who I had, you know, reviewed
10 reports from and investigations with in the past and I
11 knew that they were thorough and their documentation was
12 good, if I wasn't aware of the case, rather than
13 spending time going through a whole case file and trying
14 to learn -- get up to speed on the case, I would just
15 review it for -- our big function in that time on
16 approving these is to make sure that for UCR, unified
17 crime reporting, purposes that the boxes are -- are
18 properly filled in, you know, the classification is
19 correct, the classification codes are correct, and then
20 that the narrative flows and it's substantiated in
21 there. Like I said, other administrative things, you
22 know, check -- make sure that people that they have
23 named as being interviewed that there's actual
24 interviews and that there aren't interviews of people
25 that they didn't put in the boxes or identify, you know,

1 in those searchable boxes, et cetera. So depending on
2 the amount of time I have and the detectives involved
3 and other, you know, circumstances, you know, I may or
4 may not have. For the most part, if it was coming
5 through, what they would do is input this into the CRIS
6 system as submitted for approval and either they'll hand
7 it to a -- let a specific sergeant who's on duty know,
8 or we just come in and electronically we open it up and
9 see what's submitted and we go through them. We're not
10 only, you know, looking at homicide, but, you know, you
11 can come in there and there could be hundreds of cases
12 in there from misdemeanors, batteries, assaults, sexual
13 assaults. So to review every case and every file and --
14 and try to get it -- a handle on the entire
15 investigation, that was a rarity, you know. For the
16 most part, especially with very good detectives and
17 seasoned detectives like Schalk, Bogucki, and then
18 Noradin became a great detective under her tutelage, you
19 know, not being involved in the investigation whatever,
20 I -- I just perused it and -- and approved it based on,
21 you know -- unless they found some spelling errors,
22 grammar errors, or something missing, code wrong, box
23 not filled in. But these guys were very thorough and
24 one of the best teams of detectives I was ever able to
25 work with.

1 Q. So and that was going to be my -- so Bogucki
2 and Schalk, you viewed as being seasoned, well-versed
3 detectives, correct?

4 A. Right.

5 Q. Okay. And so in that case, you wouldn't spend
6 a lot of time having, you know -- cross-referencing
7 other documents and so you would've given the report a
8 perusal and then approved it?

9 A. More than likely, yes. Like on this one,
10 again, I don't remember this case other than I can read
11 my name on there as approving and might have been a time
12 I approved it. I don't remember approving it. Don't
13 remember what I did or didn't do. Whether I did look at
14 the file -- as I sit here today, whether I did go
15 through the file, whether I did sit down and talk to
16 them about the case, whether I was aware of anything
17 prior, I -- I don't know. I'm just telling you that
18 based on the document that I'm looking at, I did approve
19 it. And in general, when you asked me the question
20 about what I would do to approve a report, I would say
21 it would depend on the circumstances, you know --
22 several circumstances, what I would actually do.

23 Q. Okay. And you indicate -- when you reviewed
24 this report, this cleared open report, in preparation
25 for today's deposition, did it cause you to have any

1 memories at all about this Sorrell murder investigation?

2 A. Not at all, no. Other than what I read in the
3 document, no.

4 Q. Okay. And so did you -- before reviewing this
5 report, did you have any memory of the Sorrell murder
6 investigation?

7 A. Before reviewing the report now or back then?

8 Q. I'm sorry. Just, I mean, in preparation for
9 today's deposition, before you reviewed this report, did
10 you have any memory of the Sorrell homicide
11 investigation?

12 A. Okay. Before I reviewed it yesterday or
13 whatever, other than the fact that I had been named in
14 the case, which I learned from attorneys years ago, and
15 I believe I might have perused it -- one of these
16 reports years ago and I told them I don't remember this
17 at all. I don't think I was involved with this, but I
18 don't -- I can't say that with certainty, but no, I --
19 it doesn't -- it doesn't bring any -- any memories of
20 anything. You know, again, my testimony on anything in
21 here would be based on the document itself.

22 Q. Okay. So that -- and that was my -- so if you
23 -- and any testimony you give about what happened in
24 Sorrell investigation will be based on just reviewing
25 what's written in the report; is that correct?

A. Correct. I mean --

Q. Okay. And then if we turn to page -- the first page of this, it lists offenders and it lists James Fletcher and then it lists unknown. Do you see that?

A. Yes.

Q. And so that's an indication that essentially there was a second offender who was not charged at this time, correct?

A. Well, apparently was not identified either, and that would be the reason why it would be -- would be classified as cleared open, which is one of my functions. So like, say they put a report in and it said clear closed, but I see an unknown offender or a second offender or two other offenders, then it -- it shouldn't be cleared closed. It should be cleared open. So yeah, that is in line with the classification. But yeah, it does show unknown, unknown with just the description, so that's why it's open because there's still another offender -- known offender out there, at least -- at least one. By known I mean somebody identified as offender. We don't know him yet, but we know that there was at least a second offender.

Q. Okay. If you turn to the investigation section, it begins with -- it begins by listing that

1 there was an interview of Terry Rogers on February 11,
2 2002. Do you see that? Oh, I'm sorry. That Terry
3 Rogers was arrested on February 11th and then
4 interviewed by the reporting detectives on February
5 12th, correct?

6 A. That's correct.

7 Q. Okay. Do you have any personal knowledge
8 about what occurred during the course of the interview
9 of Terry Rogers in February of 2002?

10 A. None. Other than what I read in the document.

11 Q. Okay. And Terry Rogers had been -- at that
12 time he was brought in because he'd been arrested on
13 another case, correct?

14 A. According to the document, that's correct.

15 Q. Okay. And so at that time, he was facing
16 potential other criminal charges, correct?

17 A. States -- well, two. He was -- it states that
18 he was arrested for a criminal trespass to residence and
19 that a name check post that arrest revealed that he was
20 wanted by Cook County Sheriff's on a dangerous drugs
21 warrant. So there was two basically reasons that, you
22 know, he was in custody.

23 Q. Okay. So if an individual like that -- when
24 he's being interviewed by the detectives, is there ever
25 any concern that a witness like that may provide

1 information in hopes of getting some leniency with
2 regard to their own criminal troubles?

3 MR. STEFANICH: Objection. Form. Foundation.

4 THE REPORTER: I'm sorry. Was that an objection?

5 MR. STEFANICH: Yep. Objection. Form.

6 Foundation.

7 THE REPORTER: Thank you.

8 THE WITNESS: Okay. Well, if that were the case,
9 then it would've been documented as such

10 normally. State's attorney's office would've

11 been contacted in that regards. And then I -- I

12 -- I don't think if Terry -- if Terry Rogers was

13 holding out information based on getting some

14 kind of consideration on the cases that he was in

15 custody for, then I -- I don't believe he

16 would've talked to them. They do have a

17 statement from him at that time. So whether or

18 not that was in Sorrell's head, I -- I can't say.

19 BY MR. SWAMINATHAN:

20 Q. You mean in Rogers' head?

21 A. I mean Rogers' head. I'm sorry. Yes, it was
22 in Rogers' head at the time, I can't say. By my review
23 the document, there's no indication in here or review of
24 the document that that was the case, that he had stated
25 that to them. And there's no indication that a state's

1 attorney was called out in order to speak to Rogers, you
2 know, with that in mind.

3 **Q. Okay. And if there was any type of leniency**
4 **or promise that was made to Mr. Rogers, that should, of**
5 **course, be documented, correct?**

6 A. Well, yeah. And that would have to be via the
7 state's attorney's office because we don't have
8 discretion. We don't have the power, you know. We
9 can't determine that, hey -- obviously he's arrested for
10 criminal trespass to resident. That means that there's
11 a victim of a crime. We couldn't, you know, make a
12 determination that that crime's not going to be
13 prosecuted. The state's attorney's office would have to
14 do that in conjunction with the victim of that crime if
15 they were ever going to do that, and I -- I'll just let
16 you know that I've never seen -- not aware of the -- the
17 -- the state's attorneys ever doing that with anybody at
18 this juncture.

19 **Q. Well, okay.**

20 A. Now, as far as the warrant, that is a warrant
21 and there was really nothing that can be done with that
22 regardless. Again, this is Cook County Sheriff's. It
23 appears that dangerous drugs would mean that probably a
24 police officer or sheriff is a complainant on that. But
25 again, there's nothing in here that LEADS -- indication

1 that that ever occurred with Rogers.

2 Q. Now, in this case, it lists Rogers was
3 arrested for criminal trespass, not that he'd already
4 been charged or was facing prosecution, correct?

5 A. Well, for the most part, being it's a
6 misdemeanor and he was arrested by 15th District
7 officers, that's usually on a signed complaint for the
8 most part.

9 Q. Okay.

10 A. Yeah. They could catch him coming out of
11 residence, know he's not -- doesn't belong in there and
12 I don't know if this was burglary related or not, or
13 sometimes, yeah, the only thing they -- they can say
14 they can't locate the victim yet, but can verify that he
15 doesn't belong in there. They might hold him on a
16 trespass. But regardless, he still had a -- a warrant,
17 which would mean that he would have to go to court and
18 see a judge, you know, before anything. You know, it's
19 not like he could be released from custody when there's
20 an active warrant.

21 Q. Okay. And then if you look down near the
22 bottom of the page, it says, "Reporting detectives
23 checked ICAM arrest records." Do you see that?

24 A. Yes.

25 Q. Okay. So ICAM is a reference to that same

1 ICAM system we were talking about earlier, that has the
2 ability to look at -- or to pull arrest records and
3 arrest photos and so on for an individual, correct?

4 A. Well, yeah, you can do that, but then you can
5 also use that database to try to identify somebody or
6 further identify somebody also. Yes.

7 Q. Okay. And so obviously in 2002, this document
8 references the fact that they were -- they did have
9 access to and were using ICAM, correct?

10 A. Correct.

11 Q. Okay. And this ICAM system that was used to
12 check for arrest records is the same ICAM system that
13 used to pull photos for photo arrays, correct?

14 A. Correct.

15 Q. Okay. And then it indicates that they learned
16 that Jimmy Fletcher or James Fletcher had some prior
17 arrests, correct?

18 A. Yeah. Well, it says that they searched for a
19 Jimmy Fletcher, and then they learned that James
20 Fletcher, also known as Jimmy Fletcher, Eugene Brown,
21 and Arnold Dixon had a -- an IR and yes, he had several
22 arrests, including murder and armed robbery.

23 Q. Okay. And Mr. Rogers, according to the
24 document, had indicated that he knew Jimmy Fletcher from
25 when they lived in the area of Fulton and Latrobe and

1 that they'd spent time together in Cook County Jail and
2 Joliet Prison, correct?

3 A. Correct.

4 Q. Okay. So with -- in the case of Terry Rogers,
5 he had -- basically had personal knowledge, he knew
6 Jimmy Fletcher, correct?

7 A. According to report.

8 Q. Okay. And then what it indicates here is that
9 they then conducted a photo array with -- they created a
10 photo array containing James Fletcher, correct?

11 A. Obtained a photo of James Fletcher, AKA Arnold
12 Dixon, from IDOC website. Correct.

13 Q. And it looks like what they've done is they
14 created a photo array of all IDOC photos, correct?

15 A. Right. Next sentence says, "The photo was
16 placed in an array with six other IDOC photos of male
17 Blacks with the last name of Dixon." Correct.

18 Q. So any understanding of why -- well, strike
19 that. They could have -- instead of creating a photo
20 array of IDOC photos, they could have created a photo
21 array of ICAM photos, correct?

22 A. Possibly. But it -- it's kind of six of one,
23 half dozen the other. Does it really matter? I mean,
24 you're -- you're getting photos of the guy and you're
25 creating an array of like photos. So I -- I think I

1 might have stated that earlier today that, you know, you
2 just go with what's the easiest available or what you
3 can do and if they were already in there and they were
4 on the site, you know -- I don't know. Maybe they were
5 having trouble locating a photo of Fletcher via CPD or
6 ICAM. I'm not sure. And they just went with the IDOC.
7 I mean, it's -- it was a -- I know it is today. I'm not
8 sure if it is back then, but it was a open to the public
9 website where they would have photographs of inmates.
10 So even if it wasn't public, it might have just been
11 easier for them to do that. And that's the way you can
12 do it, so -- it's kind of irrelevant, but, you know,
13 they -- there was similar photos, you know, like photos
14 that would match, you know -- they were all DOC photos,
15 so --

16 Q. And putting aside Mr. Rogers for a second,
17 this was a 2002 investigation into a 1990 crime,
18 correct?

19 A. Correct.

20 Q. Okay. And so for purposes of conducting
21 identification procedures with witnesses, do you want to
22 use photos of your suspect from 1990 around the time of
23 the crime, how they looked to the witnesses, or do you
24 want to use present photos of your suspect?

25 MR. STEFANICH: Objection. Form.

THE WITNESS: Well, I mean, again, you're --
probably the best way would be photos from back
then, if you have. And if you --

BY MR. SWAMINATHAN:

**Q. And do you have any information that suggests
-- oh, I'm sorry. Okay. Go ahead.**

A. You have like photos. Now, I don't know when
Fletcher went into the joint, you know, and if that
picture was taken when he went in there. If he's been
in there for say, for example, he was in there for ten
years, then that photo would be close or could be close.
The other -- again, like when I said earlier, it depends
on the circumstances. In this circumstance, Rogers is
telling them that he knows him. So, you know, the --
it's not like an unknown individual that he saw on that
date of the occurrence and then he has never seen him
again, you know, that he has never seen before the
occurrence and, you know, maybe never seen after, you
know. So it's not somebody he's acquainted with. This
person he's acquainted with, so it's kind of irrelevant
at this point because he's acquainted with the
individual. So in other words, if I knew somebody, you
know, when we were 20 years old together and I saw him
at 30, I'd probably still recognize him.

Q. And so in the case of Mr. Rogers, they didn't

1 even really need to conduct a photo array. They could
2 have just shown the photo of James Fletcher since he
3 knew the guy, right?

4 A. They probably could have, but again, like --
5 like when they put in bold, "questioning only," they
6 were for the most part very cautious and, you know, they
7 -- for the most part, they always went above and beyond
8 what they, you know -- even though they might have been
9 able to show a single photo, they probably felt more
10 comfortable and it was a safer and a better bet to show
11 an array of photos, since one was easily available to
12 them, especially --

13 Q. And in the case of the other eyewitnesses who
14 had not indicated that they were -- they knew or were
15 friends with Mr. Fletcher, for those witnesses, you --
16 it would be -- and they haven't indicated that they've
17 spoken to the guy or known the guy for years, for those
18 witnesses, you should try to show photos of what the
19 person looked like at the time of the crime, correct?

20 MR. STEFANICH: Objection. Form.

21 THE WITNESS: Which witness in particular are you
22 talking about? Because I believe one of the
23 other -- in my review of this report, another
24 witness had familiarity with Fletcher. I think
25 it was the female, Sheenee -- Sheenee Friend.

1 BY MR. SWAMINATHAN:

2 Q. So let's start with Mr. -- with Ms. Friend.
3 Ms. Friend indicated in this report that she had seen
4 one of the offenders several times in the neighborhood.
5 That's what she had reported, correct? This is on Page
6 7 of the supp?

7 A. Yeah. It says, "Friend stated that she had
8 previously seen one of the offenders several times in
9 the neighborhood."

10 Q. Okay. So she didn't indicate that she was
11 friends with or, you know, had a personal relationship
12 with James Fletcher, correct?

13 A. It's not stated per se in here, no. But she
14 is stating that, you know, she had seen the offender
15 several times in the neighborhood.

16 Q. And she wasn't indicating that she knew him by
17 name or anything else, correct? Just that she had seen
18 the guy a few times. It was a face that she feels that
19 she'd seen in the neighborhood. That's all that's
20 indicated here, correct?

21 A. That's all that's indicated in the report,
22 correct. Because she didn't name --

23 Q. And are you indicating that under those
24 circumstances, it would've been appropriate to do just a
25 single photo viewing for her to say, oh, you know, can

1 **you just confirm this is the guy?**

2 MR. STEFANICH: Objection. Form. Misstates his
3 prior testimony.

4 THE WITNESS: No, I would probably do an array
5 personally and -- unless there's any other
6 circumstances that are not recorded in here that
7 were available to them or whatever. And by
8 reading the next paragraph, it -- it shows that
9 they did show a photo array.

10 BY MR. SWAMINATHAN:

11 **Q. Yeah. And is anything in here to indicate**
12 **that, since the time of the crime in 1990, between 1990**
13 **and 2002, she had spoken with or seen this offender**
14 **again?**

15 A. I -- I can't say with certainty because it
16 says, "Friend stated she had previously seen one of the
17 offenders several times in the neighborhood," and I --
18 my assumption would be that it previously means prior to
19 the shooting.

20 **Q. Yeah.**

21 A. But does it -- or, I mean, if you want to
22 mince words, does it mean previously seen them prior to
23 their interview on that date? I don't know.

24 **Q. Okay. And in your view, would it -- in**
25 **creating a photo array for Sheenee Friend, would you**

1 create a photo array of what the suspect and other
2 individuals looked like at the time of the crime, or
3 would you create a photo array of what Jimmy Fletcher
4 looks like now?

5 A. That would depend on what's available to you,
6 you know, in -- as far as photos, so --

7 Q. And if they had photos available to them of
8 what Jimmy Fletcher looked like in 1990 and around 1990,
9 then they should have used those photos, correct?

10 A. Well, again, you're talking about two
11 individuals, Rogers who had more of an acquaintance with
12 the guy or whatever, and then now her who both had seen.
13 So, you know, based on the report itself, I can't state
14 one way or the other. I mean, you know, she stated she
15 had seen him in the neighborhood, so -- and I don't know
16 what was available to them. I don't know when that
17 picture of Fletcher was actually taken, what year that
18 photo on the IDOC site was from, you know, not knowing
19 how long he's been in the joint, if he was in the joint
20 before that, and the picture from his prior
21 incarceration was in there. So it's -- it's hard to
22 say. I mean, in general, best practices and absent
23 real-world issues, yeah, if you could immediately get
24 one while your witness is available and sitting right
25 there in front of you and talking to you and

1 cooperative, yeah, you know, you could try to get the
2 earliest photo that's closer to the time of the
3 incident. If -- again, there's real world that comes
4 into play, so -- and again, secondarily to that, they
5 both -- both of these witnesses had stated was, you
6 know, essentially not the only time that they had seen
7 this person, so --

8 **Q. So ideally you would -- if you were going to**
9 **show photos, you try to use photos of what the person**
10 **looked like close in time to the crime, fair?**

11 A. Depending on the circumstances. Again, if --
12 if -- if a wife or a -- a neighbor who -- a guy was
13 living with him for 20 years, they grew up together and
14 then the guy committed a crime and he fled and ten years
15 later, you have him, well, do you need to go through the
16 maybe waiting days or searching through and trying to
17 find an earlier photo when -- again, it depends on the
18 circumstances. Absent no prior knowledge of the person,
19 no prior sightings, and absent any real world issues in
20 finding a photo closer to the time of incident, the
21 availability of those photos, and having your witness
22 available when you can acquire that type of photo,
23 absent all that, yeah, sure, the -- you know, you would
24 like to get the -- a photo as close to the date of the
25 incident as possible. But again, real world comes into

1 play. And again, the other circumstances are they both
2 stated they had some acquaintance and/or contact or
3 sighting of this person on occasions, more than one
4 occasion. So you do your best and that's all you can
5 really do.

6 Q. And are you aware of anything from your review
7 of the documents that indicates that there would've been
8 anything to prevent them from being able to get a photo
9 of what Jimmy Fletcher looked like in and around 1990 in
10 the time from February 12, 2002, when they interviewed
11 Terry Rogers, until March 7, 2002, when they interviewed
12 Sheenee Friend?

13 A. Well, again, there's nothing stated, but then
14 again, I -- I think the question assumes that the
15 picture they showed them was from right around the time
16 of the interview in 2002 when -- it doesn't state in any
17 way that picture that they're showing him could be from
18 IDOC and it could be from 2004, could be from -- I mean,
19 from 1992 or '91. Don't know that. You know what I
20 mean? So but there's nothing specifically stated in
21 here that -- why they did or did not. And maybe they
22 did. And maybe this was the oldest photo that they can
23 find. So there's nothing stated either way on that
24 specifically in the report.

25 Q. Let me show you a document I'm marking --

1 well, it's -- oops. Showing you a document I've marked
2 as Exhibit 11. This is City JF 4544. This is a copy of
3 Jimmy Fletcher's rap sheet, correct?

4 (EXHIBIT 11 MARKED FOR IDENTIFICATION)

5 A. I'm -- as soon as I can --

6 Q. Oh.

7 A. It's pretty small on the screen here, so --

8 Q. Yeah. Yeah. I'll wait.

9 A. It looks like -- it -- it looks like that.

10 Q. Okay. I'll -- and I'll just let you -- wait
11 for you get the document. I don't want you to strain
12 your eyes. And this indicates that -- it has that stamp
13 that we talked about earlier. This indicates that the
14 criminal history as of the indicated date, February 12,
15 2002. Do you see that?

16 A. Correct.

17 Q. So this was stamped by the identification
18 section as having been processed to send back to the
19 detective division area on February 12th, correct?

20 A. Okay. I'm sorry. I --

21 Q. No. So I'll ask it again. The stamp
22 indicates that the record -- strike that. The stamp
23 indicates that the identification division sent back the
24 criminal history of James Fletcher to detective division
25 on February 12, 2002, correct?

1 A. Well, it says that contains all information as
2 of February 12th. It doesn't specifically state when he
3 sent it, but yes, it was processed on that date.

4 Q. And in fact, if you look at the bottom and
5 here, you can see the fax stamp, correct? At the very
6 bottom of the page?

7 A. Yeah, I see it now. Sure.

8 Q. Okay. And so this was sent to the detective
9 division at -- on February 12, 2002 at looks like 8:48
10 p.m., correct?

11 A. Correct.

12 Q. Okay. And so I think based on your earlier
13 testimony, in your experience, this would've been sent
14 back, you know, possibly same day or possibly one day
15 later. So this would've been requested in and around
16 February 12, 2002, correct?

17 A. I would assume so. Yes. If they faxed it
18 over, if they carried it over, if they sent it in the
19 mail. Somewhere around that time. Correct.

20 Q. And just as you can ask the identification
21 section to send you the criminal history, they could
22 also ask the records division to send them
23 identification photos, correct?

24 A. Correct.

25 Q. Okay. And this rap sheet indicates that there

1 would've been or likely would've been arrest photos of
2 Mr. Fletcher associated with each of these arrests
3 listed here, correct?

4 MR. STEFANICH: Objection. Form. Foundation.

5 THE WITNESS: Okay. I would answer that yes with
6 the caveat that they don't -- there was times at
7 every arrest that they didn't take a photo and --

8 BY MR. SWAMINATHAN:

9 Q. But in the routine -- oh, go ahead.

10 A. The time in -- there was a time when, if say
11 an individual was arrested Monday, Tuesday, Wednesday,
12 Thursday, Friday of the same week when he came in there,
13 then based on the fact that he had just recently been
14 photographed, or I don't know what the time frame and
15 parameters they used, so there was times where he was
16 CB'd without being photographed.

17 Q. Okay. But for the most part, a person -- the
18 normal course was you take a -- you take an arrest photo
19 each time you arrest somebody, correct?

20 A. For the greatest percentage of the time,
21 correct.

22 Q. Okay. And the exception you're identifying is
23 that the person had been -- if you already had so many
24 photos is the only reason you could think of that you
25 wouldn't then also be taking a photo another time,

1 correct?

2 A. Right. And there was other times where, you
3 know, the -- the system was down and they couldn't, but
4 it's easily to find that out by checking the CBs, you
5 know. Ordering photos by the CBs instead of the IR.

6 Q. So in the case of Mr. Fletcher, they could
7 have certainly requested photos associated with each of
8 these CB numbers on Exhibit 11, correct?

9 A. I'm -- I'm sorry. I lost you here. Could
10 have what?

11 Q. Yeah. They could have requested arrest photos
12 of Mr. Fletcher associated with each of these CB numbers
13 on Exhibit 11, correct?

14 A. Yes, they -- they could have. I don't know
15 that they didn't. I don't know that they did. I don't
16 know that they weren't available. I mean, but yes, they
17 could have.

18 Q. And barring something unusual, they would have
19 had arrest photos of Mr. Fletcher in April, August,
20 October, and November and December of 2001, correct?

21 MR. STEFANICH: Objection. Form and foundation.
22 BY MR. SWAMINATHAN:

23 Q. I'm sorry. Not 2001, of 1991. Let me ask it
24 again. In the normal course, you would expect that
25 given this criminal history of Mr. Fletcher, that he had

1 arrest photos from April, August, October, November, and
2 December of 1991, correct?

3 A. It appears that way, yes.

4 Q. Okay. And so --

5 A. All of those or few of them, but yes, you're
6 correct.

7 Q. Okay. So it is likely that there were arrest
8 photos of Mr. Fletcher available from the period of
9 around 1991, close in time to the shooting in this case,
10 fair?

11 MR. STEFANICH: Form. Foundation. You can
12 answer.

13 THE WITNESS: It appears that way. Yes.

14 BY MR. SWAMINATHAN:

15 Q. Okay. And having looked at the closing
16 report, are you aware of any reason why Detective
17 Bogucki and Schalk could not have pulled arrest photos
18 of Mr. Fletcher from in and around 1991 to use in a
19 photo array?

20 A. It -- it doesn't specifically state anything.
21 No. So I'm not aware.

22 Q. Okay. And then --

23 A. I can only --

24 Q. Okay. Go ahead.

25 A. -- speculate. Again. Like I stated, don't

1 know when that IDOC photo was from. I don't know the
2 immediacy of, you know, maybe the witness says, look, I
3 got to get out of here and my -- I got to go pick my --
4 my -- my child up in 15 minutes, and they were able to
5 get it from IDOC as opposed to ordering it from the --
6 from Ident. I don't know. You know, so we can -- we
7 can look back and try to dissect it, but I don't have an
8 answer for that, and again, I -- I don't know that it
9 would have made a difference anyway.

10 **Q. And then if we look at the next section of**
11 **this closing report on Page 6, it indicates that they**
12 **located the bread truck driver, Edward Cooper, and they**
13 **had him view the same IDOC photo array, correct?**

14 **A. Well, that would have been prior to locating**
15 **Sheenee Friend.**

16 **Q. Correct.**

17 **A. They did -- they did speak to Cooper, and they**
18 **showed him a photo array. The same one that says here**
19 **they stipulated that it had been shown to Rogers.**

20 **Q. So that would be the photo array consisting of**
21 **IDOC photos, correct?**

22 **A. By the reading in the report, that is correct.**

23 **Q. Okay. And there was no -- there is nothing in**
24 **here that indicates that Mr. Cooper had ever stated that**
25 **he was familiar with or knew the perpetrator from the**

1 neighborhood, correct?

2 A. Not in this report, no.

3 Q. Okay. And so ideally, with Mr. Cooper, you
4 would -- they would have shown him photos of what
5 Fletcher looked like close in time to the crime when
6 Mr. Cooper may or may not have seen him, correct?

7 A. Well, again, in a perfect situation, perfect
8 world, perfect availability, that would be the best way
9 to do it, but again, sometimes you have to do what you
10 have to do. I'm sorry.

11 Q. And then is it -- I'm sorry.

12 A. Again -- again, don't know when that picture
13 of Fletcher that they showed was taken -- was taken, and
14 how close he is at that time and -- to how he appeared
15 in 1990. Don't know, so -- but I mean, in general,
16 without specific cases being considered, or specific
17 circumstances or whatever, in general, you would say
18 best -- yeah, they have a closest representation to the
19 offender when you're talking about years as he was at
20 the -- you know, as he appeared to -- on the -- on the
21 date of incident. You would -- you would always hope
22 for that.

23 Q. And the same -- whether they were using IDOC
24 photos or ICAM photos or any other sets of photos, the
25 goal is still the same, which is to not have a lineup

1 that suggested what we talked about earlier, correct?

2 A. Correct.

3 Q. And so if they did a photo array using IDOC
4 photos, they still want to try to get fillers who look
5 similar as much as possible to their suspect, correct?

6 A. As best as possible, correct.

7 Q. Okay. Okay. And the -- sorry, the closing
8 report indicated that they created a photo array
9 consisting of a photo of Jimmy Fletcher from the IDOC
10 website along with six other IDOC photos of male Blacks
11 with the last name Dixon, correct?

12 A. Correct. But Fletcher was incarcerated under
13 the name Dixon.

14 Q. Correct. And any indication of why they would
15 needed everybody to -- there was no reason they needed
16 to have everybody have the last name Dixon, correct?

17 A. I -- I don't know. You know, it's possible
18 that in showing the photos, they didn't want different
19 names, or if -- if they could not either redact or
20 otherwise get the names out of there. I -- I don't
21 know. I would be speculating. But they -- for whatever
22 reason, they went with his name and they ran six other
23 Dixons, and then showed it to him.

24 Q. Yeah. In this case, there was an indication
25 from Mr. Rogers that he knew this person as Jimmy

1 Fletcher, correct?

2 A. That's correct.

3 Q. Okay. So there's no particular reason why
4 they needed to pull all people with the name Dixon,
5 correct?

6 A. Not that I can ascertain from this report.

7 Q. And in fact, if Mr. Rogers had known Jimmy
8 Fletcher by the name Arnold Dixon, then it would be
9 problematic to include the names on the IDOC photos,
10 correct?

11 A. No, because if they were all with the name
12 Dixon, then it's irrelevant because they're all -- there
13 is no -- anything that is going to lead you to one
14 picture because one picture says Dixon and the others
15 don't. Here they are.

16 Q. Well, I'm -- yeah, I'm sorry. I may have --
17 I'm -- I don't know if I explained it clearly. If they
18 pulled all Dixons, but they had different names, so they
19 were Arnold Dixon, Arthur Dixon, if they all had
20 different first names, then it would be problematic if
21 you showed the photo array to Mr. Rogers with the names
22 on the photos, correct?

23 MR. STEFANICH: Objection. Form. Foundation.

24 THE WITNESS: Okay. I'm kind of lost. But if --
25 if he gave the name Jimmy Fletcher, and then

they're showing pictures of all people with various first names but the last name Dixon, that would -- in my mind, he still picks out Jimmy Fletcher. It's not like he looked at it and -- and said, no, he's not in there, because he saw it was all Dixons, and he knows it is Jimmy Fletcher, and he doesn't see a Fletcher in there. So that would indicate to me maybe a little stronger identification because even though he would have saw -- seen all people with the last name of Dixon, he still picked out Jimmy Fletcher.

BY MR. SWAMINATHAN:

Q. Good point. And then do you see any indication in the file about whether or not Terry Rogers, who indicated that he knew Jimmy Fletcher from the neighborhood and had known him for a long time, any indication about whether or not he knew that Jimmy Fletcher went by the name Arnold Dixon?

A. I -- I don't see that indicated in the report, no.

Q. And if Terry Rogers knew that Jimmy Fletcher went by the nickname Arnold Dixon, then it would be a problem to include the names in the photo array, correct?

1 A. If he knew first and last name, and there was
2 no other Arnold Dixons in there, correct. I mean --

3 Q. Okay. And --

4 A. -- if -- if I -- I know him as Arnold Dixon,
5 and then they show photographs, be it six people with
6 the last name of Dixon, but in the photographs he's
7 looking at, there is an Arnold Dixon, then yeah, you --
8 you might be able to argue or -- or somebody may
9 determine that that was a suggestive photo array, but
10 that is not what it -- the report indicates occurred. It
11 appeared that he had said Jimmy Fletcher.

12 MR. SWAMINATHAN: Okay. All right. Let's take a
13 look at Exhibit 12. The -- this is the photo --
14 IDOC photo array. Brian, you can show that one
15 to Mr. Wojcik, I just want to flag that that
16 version has some redactions on it from the
17 state's attorney, and so I pulled a different
18 version. So I'm going to read the version that
19 I'm pulling up on my screen, the Bates stamps.

20 (EXHIBIT 12 MARKED FOR IDENTIFICATION)

21 MR. STEFANICH: Okay.

22 BY MR. SWAMINATHAN:

23 Q. And so this is a document I marked as Exhibit
24 12. It's Bates stamped JNB 1563 through 1569. And it
25 contains seven photos, and at the top of each page, it

1 says, "Illinois Department of Corrections." Do you see
2 that, Mr. Wojcik?

3 A. Yes, I do.

4 Q. Okay. And I think the version that you have
5 in front of you has a different Bates stamp. It's
6 slightly different, but it's a little bit clearer to
7 read the version you are looking at. Your version says,
8 "CCSAO conflicts 1761 through 1767," correct?

9 A. Correct.

10 MR. SWAMINATHAN: Okay. And I'll mark that one
11 as Exhibit 13, just so that there's no -- so the
12 record is clear that we have two versions of this
13 seven-person photo array.

14 (EXHIBIT 13 MARKED FOR IDENTIFICATION)

15 BY MR. SWAMINATHAN:

16 Q. So this appears to be the photo array
17 containing Arnold Dixon or Jimmy Fletcher, as well as
18 six additional individuals' IDOC photos, correct?

19 A. Correct.

20 Q. Okay. And if you look at this photo array,
21 does it cause you any concerns in terms of whether or
22 not this was a suggestive or fair photo array?

23 A. No, it does not.

24 Q. Okay. And in this photo array -- well, first
25 of all, when you typically conduct photo arrays in the

1 Chicago Police Department using ICAM photos or photos
2 from the identification section, the individual's name,
3 birth dates, height, weight, that kind of descriptive
4 information is not included when you conduct a photo
5 array, correct?

6 A. For the most part, yes, that is correct.

7 Q. Okay. And in this case, the photo array did
8 include not only the individual's name, but also their
9 date of birth, weight, hair, sex, height, race, and
10 eyes, correct?

11 A. I -- it appears on mine that the date of birth
12 is redacted, so I don't know if that was then. I -- I -
13 - I'm assuming that that might have occurred after. I'm
14 not sure.

15 Q. Yeah. And look at the -- that's why I pulled
16 up this version, Exhibit 12, that's on my screen.

17 A. Oh, okay.

18 Q. What you have is the version produced by the
19 State's Attorney's Office to us in the litigation. So
20 in the litigation, they typically redact the dates of
21 birth and Social Security numbers. But if you look at
22 the version that has been produced in this case here,
23 Exhibit 12 on my screen, the dates of birth are not
24 redacted. Do you see that?

25 A. Okay, I see that. Yes, I do.

1 Q. Okay. All right. So in this IDOC photo
2 array, there is -- these photos in -- the photos used in
3 the photo array included a number of pieces of physical
4 descriptive information of each of the individuals,
5 including their date of birth, correct?

6 A. Correct.

7 Q. Okay. And if you look at these photos,
8 Mr. Fletcher's date of birth is March 30, 1963, correct?

9 A. Correct.

10 Q. Okay. And that would have made him
11 approximately 27 years old at the time of the Sorrell
12 investigation, correct? I'm sorry, at the time of the
13 Sorrell crime, correct?

14 A. I'd have to -- have to calculate that out,
15 Counselor, '63 to '90. Well, but yeah, right around
16 there, you're correct.

17 Q. I'm not good at a lot of things, but math is
18 one of my stronger suits. Let's see. Okay. I'm going
19 to show you a document I have marked as Exhibit 14.
20 Okay. This is City JF 47 to 51. This is the original
21 supplementary report created on December 21, 1990, by
22 Detective Michael Fleming. See that?

23 (EXHIBIT 14 MARKED FOR IDENTIFICATION)

24 A. Okay, Counselor.

25 BY MR. SWAMINATHAN:

1 Q. Okay. So this is the original scene
2 supplementary report filled out by Detective Fleming
3 back in -- on December 21, 1990, right after this crime
4 had occurred, fair?

5 A. That's what it appears to be, yes.

6 Q. Okay. And there's a wanted section here. Do
7 you see that on Page 2?

8 A. Yes.

9 Q. Okay. And the individuals who are listed as
10 wanted are male Blacks in their 20s, correct?

11 A. That is correct.

12 Q. Okay. And they are both listed as having a
13 slim build, dark complexion, and one is listed as having
14 a collar-length curls, and the other is listed as having
15 black hair in a ponytail, correct?

16 A. Correct.

17 Q. Okay. And Mr. -- and if you -- okay, let's
18 pull that down. And if you go back to the closing
19 report for a moment, you see that Jimmy Fletcher is
20 identified as one of the perpetrators, and the other
21 perpetrator is identified as the individual with the
22 ponytail, correct?

23 A. On -- on the closing -- clear -- cleared open?

24 Q. Yeah, cleared open.

25 A. Okay. Okay, I'm sorry, what was the question

1 now?

2 Q. Yeah. On the cleared open, it lists the
3 offender as being Jimmy Fletcher, and then the unknown
4 individual is the second offender, the person with the
5 ponytail. Do you see that?

6 MR. STEFANICH: I'm going to object. Form.
7 Foundation.

8 THE WITNESS: Okay. Yeah, for Fletcher, it has
9 black hair, long hair. For the unknown unknown,
10 it has black hair, ponytail hair.

11 BY MR. SWAMINATHAN:

12 Q. Okay. And so if we go back to the original
13 scene supp in Exhibit 14, Offender number 2 is the one
14 with the ponytail. Offender number 1 is the one with
15 the collar-length curls, correct?

16 A. In the original, that's correct.

17 Q. Okay. And so it looks like they basically
18 identified Jimmy Fletcher as being Offender number 1,
19 correct?

20 MR. STEFANICH: Objection. Form. Foundation.

21 THE WITNESS: I can't say with certainty that
22 that was their intent, but if you're stating by
23 based on the hair descriptions, it doesn't say
24 collar length exactly, it says long hair.

25 Whether or not that's considered long hair or

not, I don't know. And it -- the ponytail, yes,
it would say -- it would be more exact to the
second one, where it says black hair, ponytail on
the original, on the scene supp, and it says
black hair, ponytail in the unknown unknown, so -
-

BY MR. SWAMINATHAN:

Q. And if you look -- if we look back --

A. We can draw that inference based on that.

Q. And if we look back at Exhibit 12, the photo
array?

A. Okay.

Q. We noted the date of birth for Arnold Dixon,
or Jimmy Fletcher, as being March 3, 1963. So he would
have been in his 20s, 27 years old, at the time of the
Sorrell crime, correct?

MR. STEFANICH: Asked and answered.

THE WITNESS: Yes, that's correct.

BY MR. SWAMINATHAN:

Q. Okay. Then if we look at the next photo, if
it's somebody -- it's of somebody named Arthur Dixon.
You see that?

A. Yes.

Q. Arthur Dixon was nine years younger than Jimmy
Fletcher, correct?

MR. STEFANICH: You have to show it on your screen.

THE WITNESS: Yeah, I don't --

BY MR. SWAMINATHAN:

Q. Oh, it's not on my screen? Okay. Sorry. Yeah, let me see here. Okay, yeah. This is Page number 2 of Exhibit 12. It indicates his date of birth is 1972, correct?

A. Yes.

Q. So anybody viewing this photo array would immediately know that Arthur Dixon was 18 years old at the time of the Sorrell crime, correct?

MR. STEFANICH: Objection. Form. Foundation.

THE WITNESS: Well, given that they knew ages, that they saw the ages, and they sat there and calculated all that out, you know, that would have to have been -- that would be true. I don't -- you know --

BY MR. SWAMINATHAN:

Q. If somebody looked at the date of birth, they could calculate pretty quickly what the age of Arthur Dixon was at the time of the crime, correct?

A. Correct.

Q. And the next individual on Page 3, Darnell Dixon, his date of birth is 1971, so he would've been

1 approximately 19 years old at the time of the crime,
2 correct?

3 A. Approximately, correct.

4 Q. Okay. And the next individual, Devon Dixon,
5 anybody looking at that photo could see the date of
6 birth and immediately recognize that he was
7 approximately 16 at the time of the Sorrell murder,
8 correct?

9 MR. STEFANICH: Objection. Form. Foundation.

10 THE WITNESS: Approximately, correct.

11 BY MR. SWAMINATHAN:

12 Q. And then if you look at Page 5, Otis Dixon,
13 Otis Dixon is identified as being born in 1964, so he
14 would have been around the same age as Jimmy Fletcher,
15 about 26 years old at the time of the crime, correct?

16 MR. STEFANICH: Hold on one second.

17 THE WITNESS: Okay. I'm sorry. Otis Dixon?

18 BY MR. SWAMINATHAN:

19 Q. Yes.

20 A. Born in '64.

21 Q. Uh-huh.

22 A. Right.

23 Q. So he was close in age to Mr. Fletcher, fair?

24 A. Correct.

25 Q. Okay. In the case of Mr. Otis Dixon, though,

1 he appears to be bald or very nearly bald, correct?

2 A. Well, no, he's just got short, tight hair, but
3 the -- doesn't -- I wouldn't call him bald, but he has
4 short --

5 Q. You said short -- did you say short, tight
6 hair?

7 A. Yeah, I wouldn't call him bald. He's got
8 hair.

9 Q. Okay. And then picture number -- and then
10 number 6 is Jarone Dixon, and he was born in 19 -- his
11 date of birth is listed on the photo array itself as
12 being 1982. So he was about 8 years old at the time of
13 the crime, correct?

14 A. Correct.

15 Q. Okay. And then if you look at Frederick
16 Dixon, his date of birth is listed in the photo array as
17 being 1972, so he would've been approximately 18 at the
18 time of the Sorrell crime, correct?

19 A. Correct.

20 Q. So other than Mr. Fletcher, there was only one
21 other individual in this photo array who was in their
22 20s at the time of this crime, correct?

23 A. I didn't memorialize all those ages, but I
24 will accept that. I'm sorry.

25 Q. Okay. And does that cause you any concern

1 that they created a photo array in which there was only
2 one other individual who was in his 20s like Mr.
3 Fletcher?

4 A. No. I mean, you have to look at the photo
5 array itself and the characteristics and then make a
6 judgment on whether or not it's a fair photo array. I
7 mean, some people are in their 30s and they look like
8 they're 50. Some people are 50 and they look like
9 they're in their 30s. So this would have to be a -- you
10 know, again, looking at it, I don't think there's
11 anything wrong when you just look at the faces, the
12 frontals, and the profiles. And the hair and that can
13 change over time, regardless, you know, so you -- you
14 know, you're talking years later, so a guy can have --
15 be -- you know, have tight hair back then and -- and
16 curls now. He could have longer hair back then and be
17 bald now. But if you just look at the pictures
18 themselves, I think it's a -- I don't think it's --
19 there's anything wrong with that photo -- the photo
20 array itself. And again, you're getting back to
21 splitting hairs when you have people that knew the
22 individual, you know, especially Rogers, where you
23 probably could have just shown them a -- a straight up
24 one-on-one photo because of the past, the acquaintance.

25 Q. That's not true of Mr. Cooper, though, is it?

A. I'm sorry?

Q. That's not true of Mr. Cooper, though, is it?

A. Oh, I'm just saying in that regards with him, you know. But regardless, if -- if -- if just looking at the physical characteristics, the faces and that, and the quality of the photos, you know, et cetera, et cetera, I don't think there's any glaring issues with it, you know, given the -- the passage of time. Now, had --

Q. And you have an understanding that Mr. --

A. -- had this been -- had this been the day after, you know, where somebody said he was bald and now you're showing -- you're putting people with corn rows in there, or collar-length hair, the day after the incident, then you could say, well, those are obviously not your guys. So, you know, if -- you know, if you have a 30-picture photo array, and ten of them have that, well, you still may be good by the numbers, you know? So every one of these has to be judged individually and based on circumstances and based on your witnesses, you have to view that, you know?

Q. Does it cause you any concern that one of the photos used in this photo array was of somebody who was 8 years old at the time of the crime?

A. No, because, again, look at the faces, look at

the -- the -- the photographs themselves to determine, you know, whether or not it's a bad photo array.

Q. Okay. So you could -- and by that standard, you could have a photo array where everybody looks pretty similar to your perpetrator, at the bottom of every page you could write "this is not the guy," right? Because if the photos look pretty similar, it's okay, right?

A. I -- I'm sorry, you lost me there with that.

Q. Yeah. What if all these photos look very similar to Mr. Fletcher, almost twins of Mr. Fletcher, but on every one of the other photos at the bottom of the page, it said, "This is not the guy." That would be a fair photo array according to you, right? Because the photos all look similar, correct?

MR. STEFANICH: Misstates his testimony.

THE WITNESS: I'm -- I'm -- I'm not understanding what you mean by it's written under "This is not the guy."

BY MR. SWAMINATHAN:

Q. Yeah. If I -- each -- if each of these photos, instead of having a date of birth that indicated the person was 8 years old, instead of that, it just said, "This is not the perpetrator," what if it had said that? Would that be problematic?

MR. STEFANICH: Objection. Form.

THE WITNESS: You mean somebody just happened to write on there this is not the perpetrator?

BY MR. SWAMINATHAN:

Q. Yeah. What if Bogucki and Schalk wrote on every one of the photos other than Jimmy Fletcher, they wrote, on the bottom of the page, "This is not the perpetrator." Would that be okay?

A. And they're all the same, you mean? Okay. Like on here, every one of them says "Illinois Department of Corrections." So if all of them say that, then it's even. There's no difference in -- as far as --

Q. No, I said other than Jimmy Fletcher. I said if every other photo other than Jimmy Fletcher says, "This is not the guy" --

A. Hold on. Let me finish, Counselor. Let me finish. So in regards to what you're stating, if every one of them had the exact same verbiage, and if -- like, in this one, they all say -- if -- if, for example, I showed an array, and one of them had Illinois Department of Corrections, and the other ones had nothing, then that might be bad because the one handing the witness may see -- may be, this guy's been in a joint. It's from DOC. It's -- that guy's a criminal. Okay. Yeah,

1 it's him. If everything is in balance, whether -- to
2 me, it doesn't matter what you have on there, if you
3 have a -- a picture --

4 Q. No, but you're not answering my question.
5 Focus on my question. So my question is picture number
6 one, the picture --

7 A. I'm trying to -- the question -- to me, it's
8 irrelevant if you have a picture of a tree on every one,
9 and it's the same tree, it's irrelevant because it's a
10 balance, so --

11 Q. But you -- but you're wasting your time
12 because you're not answering my question, so we'll do it
13 again. But I mean, I want to get you out of here
14 sooner, so let's try it again. Picture number 1 is
15 Jimmy Fletcher. Picture number 2 through 7 are these
16 other individuals. And on Pictures 2 through 7, it --
17 on the bottom of the page, it says, "This is not the
18 perpetrator." Is that a fair photo array?

19 A. Oh, and Dixon's doesn't say that?

20 Q. Yeah, Dixon's does not say that.

21 A. Okay. Well, no, then it's not because, again,
22 they're not all the same.

23 Q. But why isn't that a fair photo array --

24 A. I just --

25 Q. -- if their pictures all look similar?

1 A. What's that?

2 Q. Why isn't that a fair photo because their
3 pictures all look similar?

4 A. Well, that is now you're -- you're telling
5 your -- you're telling your witness this is not the
6 offender. You used the word perpetrator, but this is
7 not the offender.

8 Q. Uh-huh.

9 A. So there's a difference there.

10 Q. And in your view, showing somebody a photo of
11 somebody who was 8 years old at the time of the crime,
12 that's not the same as saying, "This is not the
13 offender"?

14 MR. STEFANICH: Objection. Form. Misstates his
15 testimony.

16 THE WITNESS: Did the witness see that and did
17 the witness calculate that? Again, I don't know
18 that. I don't know that they showed it to him and
19 he saw the date of birth. I don't know that he
20 calculated that. There's no indication in here.
21 And if he took the one out that was 8-years-old,
22 you still have, what, four other fillers in
23 there, you know? You know, it's not like you're
24 down to then two other people that are -- or only
25 one other person that's possible. You still have

other possibilities.

BY MR. SWAMINATHAN:

Q. Do you agree that the date of birth --

A. There's no indication either way whether or not they covered that up or he saw that or he was able to read that or did they fold the paper? Did they cover that? I don't know. I mean --

Q. Do you agree that the -- that information, the date of birth and other information, should have been covered or hidden when the witnesses viewed the photo array?

MR. STEFANICH: Objection. Form. Foundation. You can answer.

THE WITNESS: Best practices and not knowing whether they did that or not, or whether the witnesses saw that or not, again, you have somebody who was an acquaintance with him, so I - I think that's irrelevant in that case.

Another one where she saw him in the neighborhood several times, somebody can try to question her further and argue whether or not any of that was relevant, whether she saw that or was able to ascertain that or not. And again, I don't know. I mean, best practice, best -- best scenario by the book, yeah, you would like to eliminate any

1 other things that are different in -- in that
2 picture. I mean, one -- you know, again, they
3 have different names, different DOC numbers, but
4 yes, you know, perfect? Perfection? Yes.

5 BY MR. SWAMINATHAN:

6 Q. Best practice by the book, you'd be conducting
7 a photo array where the person saw photos without a
8 bunch of identifying information, fair?

9 A. Correct to the extent that, again, if he was
10 the only one with identifiers, then it -- he would stand
11 out. If there are identifiers that somebody can read
12 and ascertain and -- you know, and if that was shown to
13 him as a difference, and then they can eliminate some of
14 the other people in there based on those demographics, I
15 mean, they're all male Blacks, you know, the height and
16 weight doesn't really matter much because of the time
17 difference. So the only thing that somebody can argue
18 there in reality is the date of birth. Now, whether or
19 not that was seen by a witness that didn't know them
20 prior, I -- I don't know. It doesn't state one way or
21 the other in the report, so I can't speak for that.

22 Q. So we've already talked about the --

23 A. So -- had no knowledge of the person, and
24 you're giving them a chance to peruse everything on
25 there on every -- on every one of these and they're

1 calculating ages and stuff, you know, yeah, you can say
2 that, you can argue that. But again, if you have 30
3 pictures and three of them are guys that were too young,
4 it's kind of -- the array's still good because you still
5 have other fillers that -- many fillers that are -- are
6 still appropriate, or -- or, you know, somebody can't
7 argue are inappropriate, rather. So --

8 **Q. If you had been --**

9 A. -- look at the circumstances, and based on the
10 circumstances of my viewing of this, I -- I think
11 physically, it's a good photo spread just by the
12 appearances of the individuals in there, and not knowing
13 whether or not the one witness that didn't have any
14 acquaintance with them was able to look at dates of
15 birth and eliminate one or two guys here based on their
16 date of birth from this photo spread. I -- you know, I
17 still think it's a good, you know, fit by the physical
18 characteristics and all that. And even if you eliminate
19 one or two based on date of birth, it's still a good
20 photo array.

21 **Q. I'll represent to you that Jerome Bogucki has**
22 **testified under oath that he did leave this physical**
23 **information and date of birth information on the photos**
24 **that he showed Mr. Cooper. Does that cause you any**
25 **concern?**

1 A. Well, I mean, again, no. Like I said, I don't
2 know whether the witness saw that, you know. I mean,
3 did he say that the witness saw that and calculated it
4 and eliminate two guys out of this array? And again,
5 that would be for the one witness that didn't have
6 acquaintance with him, that it would be more of a factor
7 or more of a concern or --

8 **Q. So under that same logic, you agree that he**
9 **could simply write at the bottom of Pages 2 through 7,**
10 **"This is not the offender," because it's possible the**
11 **witness didn't look at the bottom of the page, fair?**

12 MR. STEFANICH: Objection. Form. Misstates his
13 testimony.

14 MR. SWAMINATHAN: That doesn't misstate his
15 testimony.

16 BY MR. SWAMINATHAN:

17 **Q. Go ahead.**

18 MR. STEFANICH: It does. And it also -- yeah.
19 Objection. Form. Misstates his testimony.

20 THE WITNESS: Well then you would have one photo
21 that is specifically easily determined. I mean,
22 that's where you're basically telling him, this
23 is not the guy, this is not the guy, this is not
24 the guy, this is not the guy, this is not the
25 guy. And the one photo that doesn't have it,

1 well, that must be the guy. Well, first off, you
2 are conflating out of a six-person array, that by
3 five dates of birth, five people were eliminated,
4 and that's not the case in this array.

5 BY MR. SWAMINATHAN:

6 Q. Are you aware of anything that prevented them
7 from going on the IDOC website and pulling photos of
8 other individuals who were also around the age of 26 and
9 27 years old?

10 A. I'm not sure if they could have searched that
11 IDOC by that age parameter, but yeah, I mean, again, you
12 -- I mean, yeah, you could just keep filtering through
13 and look for people to have closer dates of birth, sure,
14 they could have done that.

15 Q. And ideally, if you were conducting a photo
16 array in which the witnesses were telling you that the
17 perpetrator was in their 20s, you try to have a photo
18 array with people in their 20s, right?

19 MR. STEFANICH: Objection. Form.

20 THE WITNESS: Well, if you're in proximity to the
21 time, yes. So you don't -- in this case, 20s in
22 1990 would be 32 in 2002. So if it's in 1990
23 that you're investigating it, then yeah, you want
24 to get people close in age, and not necessarily
25 by number. It's by appearance more than number,

1 because again, when you get gender, race, there's
2 a -- a -- there's African American individuals
3 that you would think are Puerto Rican or
4 Hispanic. There's Hispanic individuals that
5 people would think are African American, you
6 know? There's White individuals that appear to be
7 Hispanic, you know? There's -- so you have to go
8 by the -- not necessarily the age, but the
9 appearance of the photo itself. You know, I
10 could put all guys that are 20 in there and I
11 could find four 20-year-olds that look like
12 they're 40. Next to a 20-year-old, it looks like
13 he's 15, and that would be suggestive.

14 BY MR. SWAMINATHAN:

15 Q. And then last question, just so I understand
16 your testimony. It's your testimony under oath that,
17 including a picture of an 8 -- of somebody who was 8
18 years old at the time of the crime is -- does not make a
19 lineup suggestive when it's in a photo array with the
20 suspect who was 27 years old at the time of the crime?

21 A. Well, if the 8-year-old --

22 MR. STEFANICH: Objection. Form. Incomplete
23 hypothetical.

24 THE WITNESS: If the 8-year-old appears to be 27
25 in this photograph, that's fine.

1 BY MR. SWAMINATHAN:

2 Q. Okay. So --

3 A. The age doesn't dictate, you know, the
4 appearance of that individual, or it doesn't make it a
5 good lineup in itself because I have all 27-year-olds in
6 there. It doesn't necessarily make it a good lineup.

7 Q. Let go to page -- let's go back to the closing
8 report, Exhibit -- cleared open report, which is Exhibit
9 10.

10 A. Yes.

11 Q. It documents an interview of Terry Rogers with
12 ASA Jennifer Walker [sic]. You had no participation in
13 any ASA interviews or handwritten statements, correct?

14 A. Not that's reflected in here and not that I
15 recall. I don't believe I did it all.

16 Q. And then did you participate in any interviews
17 of Jimmy Fletcher?

18 A. Did not. Not that's reflected in here. Not
19 that I can recall at all.

20 Q. Did you participate in any interviews of
21 Sheenee Friend?

22 A. Not that's reflected in the document. Not
23 that I recall at all.

24 Q. And did you participate in any interviews of
25 Emmett Wade?

1 A. Not that's reflected in the document here and
2 not that I can recall at all.

3 Q. Okay. All right. Let's take a look at
4 Exhibit 15, which is City JF 153 to 158.

5 (EXHIBIT 15 MARKED FOR IDENTIFICATION)

6 A. The lineup report, Counsel?
7 BY MR. SWAMINATHAN:

8 Q. You got it, yeah.

9 A. Yes.

10 Q. Okay. You -- sorry. This lineup report was
11 one of the documents you reviewed in preparation for
12 today's deposition, correct?

13 A. That's correct.

14 Q. Okay. And this lineup report was submitted --
15 who were the reporting detectives on this lineup report?

16 A. It was submitted by Detective Schalk, and
17 here's a -- it's a report of Detective Schalk, Bogucki,
18 and Noradin and -- let me just see who was -- it shows
19 Bogucki and Schalk is conducting the lineup, so it
20 doesn't appear, based on the report, that Noradin
21 conducted the lineup, but he is listed as a reporting
22 officer at the end of the narrative.

23 Q. Okay. And then the lineup photos were taken -
24 - in this case were taken by Detective Schalk himself,
25 right?

A. That's what it says. Yes, that's correct.

Q. Okay. And so sometimes the detectives would conduct the lineup photos themselves instead of calling in an evidence technician, correct?

A. That's correct, yes.

Q. Okay. And you approved this report on May 24, 2002, correct?

A. Correct.

Q. Okay. And at the time you approved this report, would you have reviewed photos of the lineup itself?

A. Not that I recall and it's not my normal practice. I don't know that I ever have reviewed the photos of a lineup prior to proving a lineup report. Most of the time we don't have them available because they were -- especially back then, they were just done on regular film, so you'd have to send the film down and you would have to have had it developed and then requested those photos. But I don't recall ever doing that and it's not reflected in this document that I did it here and I don't recall having done that here.

Q. And did you review -- or strike that. Did you have any involvement in the conduct of the lineup that's documented here?

A. It's not documented here and I don't recall

1 that I did.

2 Q. And did you have any involvement in the photo
3 arrays that we discussed earlier that were conducted in
4 the Sorrell murder investigation?

5 A. No. It is not reflected in the document and
6 not that I recall at all.

7 Q. Okay. If we go back to the cleared open
8 report for a moment. With regard to the photo array of
9 Edward Cooper that we had talked about earlier on Page
10 6, Bogucki and Schalk's and Noradin's cleared open
11 report indicates that Mr. Cooper made a -- he identified
12 Jim Fletcher, but said he could not be positive of his
13 identification, correct?

14 A. Right. The sentence reads that, "At the time,
15 Cooper picked out the photo of James Fletcher and stated
16 that he looked similar to one of the offenders." Next
17 sentence is, "He could not be positive of his
18 identification."

19 Q. Okay. And that would be what we talked about
20 earlier, but that would generally be considered a
21 tentative identification, correct?

22 A. Yes. One of the -- the usual term that
23 detectives or even state's attorneys would sometimes
24 use, call it a tentative ID. Yeah.

25 Q. Okay. And then on the lineup report, it

1 indicates that Mr. Cooper and Ms. Friend viewed the
2 lineup and both positively identified James Fletcher,
3 correct?

4 A. Going back to that, but that's what I recall
5 having read. I'll just double-check that. It says --
6 okay. "Present at the lineup was an attorney for
7 Fletcher and" -- yeah. "Sheenee Friend and Edward
8 Cooper each viewed the lineup. They both positively
9 identified Subject number 2, James Fletcher, as one of
10 the offenders who robbed Edward Cooper and shot Willie
11 Sorrell."

12 Q. No indication that either of them was
13 tentative about their identification, correct?

14 A. None at all, no.

15 Q. And no indication, on the other hand, that I -
16 - there -- is there any indication --

17 A. I'm surprised that they both positively
18 identified him.

19 Q. Okay. And is there any indication in this
20 report about their level of confidence in their
21 identification?

22 A. Positive identification.

23 Q. And positive identification, does that -- does
24 positive identification always mean -- well, strike
25 that. If either of them had indicated any uncertainty

1 about their identification, is that something that
2 should have been documented?

3 A. Well, it would've been stated like they --
4 Bogucki and Schalk and/or Noradin did earlier, where
5 they said it was similar or couldn't be positive or
6 tentative. When they documented positive, that means a
7 positive identification, meaning that both Friend and
8 Cooper stated that that was the offender -- one of the
9 offenders who robbed Cooper and shot Willie Sorrell.

10 MR. SWAMINATHAN: Okay. Now, let's take a look
11 at Exhibit 16. This is the lineup photos, Brian.

12 (EXHIBIT 16 MARKED FOR IDENTIFICATION)

13 BY MR. SWAMINATHAN:

14 Q. Showing you a document I've marked Exhibit 16.
15 This is City JF 4566 through -- 4566, 4569, 4577, and
16 4578.

17 A. Got it, Counselor.

18 Q. Okay. Is that in front of you?

19 A. Yes.

20 Q. All right. This appears to be the photos of
21 the lineup that was taken, correct?

22 A. That's correct.

23 Q. Okay. And in this lineup, it appears Jimmy
24 Fletcher, his hands are handcuffed behind his back,
25 correct?

1 A. No, it doesn't appear that. I mean, I don't
2 see any handcuffs. No.

3 Q. Can you tell one way or the other?

4 A. I don't see handcuffs. His hands are behind
5 his back, and that's when the photograph was taken.
6 Doesn't necessarily mean that his hands were positioned
7 that way either during the actual lineup.

8 Q. And --

9 A. This is not the lineup. This is a photo of
10 the lineup.

11 Q. Okay. And so, if during the lineup, his hands
12 were handcuffed behind his back, that would be a
13 problem, correct?

14 A. Correct.

15 Q. Okay. And --

16 A. If -- unless everybody else was handcuffed
17 behind their back.

18 Q. Right. Okay. And in this photo array, do you
19 see anybody else with long hair other than Mr. Fletcher?

20 A. Well, I can't tell on the guy in position 1
21 whether he's got long hair or not. It's -- it's hard to
22 tell on that one. Position 3 does have some longer
23 hair, however, the -- the number 2 being our Fletcher,
24 he does have his hair in kind of like a braided-type --
25 somewhat braids.

1 Q. And in this picture, Mr. Fletcher doesn't have
2 any laces in his shoes, correct?

3 A. That's -- it looks that way to me. Correct.

4 Q. And that's commonly the case with individuals
5 who are coming over from Illinois Department of
6 Corrections, correct?

7 A. Well, yeah, either corrections or maybe from
8 the lockup. The -- our lockup wouldn't allow strings in
9 there either, so --

10 MR. SWAMINATHAN: Yep. Okay. We can put that
11 one down. All right. Why don't we take a five-
12 minute break? We're getting close toward the end
13 here.

14 THE REPORTER: All right. We're off the record.

15 (OFF THE RECORD)

16 THE REPORTER: Back on record.

17 MR. SWAMINATHAN: All right. I am showing you a
18 document I've marked as Exhibit 17. It's City JF
19 191 to 198. This is the photos -- a series of
20 photos, Brian.

21 (EXHIBIT 17 MARKED FOR IDENTIFICATION)

22 MR. STEFANICH: Okay. We got it.

23 BY MR. SWAMINATHAN:

24 Q. Okay. Mr. Wojcik, do you have that in front
25 of you?

A. Yes.

Q. Okay. The first page says, "From" -- it says, "To Graphic Arts, 11th and State, from" -- looks like "650." Do you see that?

A. Yes.

Q. Okay. And 650, is that a reference to a particular unit of the department?

A. That'd be Area 5, Violent Crimes -- or Area 5.

Q. You said Area 5, Violent Crimes?

A. Well, I believe 650 is just Area 5 in general, but I think it used to be 651, 652 to designate the two, but 650 would be Area 5, the --

Q. Okay.

A. Yeah.

Q. Okay. And then the next set of pages are a series of what look like arrest photos, correct?

A. Well, 193 doesn't appear to be an arrest photo. Possibly --

Q. You said 193?

A. Sorry. 192.

Q. 192 is not an arrest. So that looks like a Polaroid photo sort of, right?

A. Some kind of photo taken, non-arrest. It could have been an interview room or a hallway, just by the wall behind --

Q. And do you know who that individual is?

A. I have no idea.

Q. Okay. And then 193 through -- the photos on 193, 194, 195, and 197, what do those look like to you?

A. 7. Well, some of them might only have, like, half. Some of them don't have a head. They all appear to be copies or partial -- or in some instances, partial copies of arrest CB photos from --

Q. And then -- so what is the scenario or circumstance in which the detective division would be sending photos like this to the graphic arts section?

A. Sending them to Graphic Arts?

Q. Yeah. That's what it says on Page 1, right? That this is from the detective division to Graphic Arts?

A. Yeah. I don't know that -- that that is -- this being sent to Graphic Arts. I mean, the first page does state, "To Graphic Arts, 11th and State, from 650." And then it looks like there might have been a some yellow -- I don't know if it's an envelope or something that that might have been on. It's hard to tell. It's very light on my copy.

Q. Yeah. It could -- it's possible it's just out of place or something else, so I don't want to suggest that we know that for sure, but maybe --

1 A. I -- I -- I believe that it's out of place. I
2 believe that that is not -- these were not sent to
3 Graphic Arts.

4 Q. Okay. And so let me -- maybe a better
5 question is, what is the role of Graphic Arts or to what
6 extent do detectives interact with the graphic arts
7 section in the course of a homicide investigation?

8 A. Well, that would be the section within Ident
9 to get photographs. You know, they would -- they would
10 assist you in developing the photographs, you know. So
11 if you sent the request in for color photographs, they
12 would pull the film, develop the -- the photos, and send
13 them to you, or like I said before, if you did it on an
14 emergency basis and they called somebody in, the guy
15 would come and pull the film and develop black and white
16 photos for you. So that would be a -- it -- it would --
17 used to be right down the hall from the records section
18 of Ident. So it's a -- it's a -- it's Ident. It's a
19 section of Ident that would deal with us getting
20 photographs for, you know, IR photos, et cetera.

21 Q. Okay. So you talked several times during this
22 deposition about the identification section. The
23 Graphic Arts is basically a group within the
24 identification section, correct?

25 A. Correct.

1 Q. And it's the group within the identification
2 section from which you can get photos generated,
3 correct?

4 A. Correct.

5 Q. And typically, when they generate photos for
6 you, they're generating photos like the CB photos or
7 arrest photos on 193, correct?

8 A. Correct.

9 Q. The photo on 192, is that the type of photo
10 you --

11 A. I'm sorry. Unless you're -- it's an emergency
12 and you can go which -- then you can only get a black
13 and white copy.

14 Q. Okay. And the photo on 192, is that the type
15 of photo that Graphic Arts usually sends?

16 A. Not that I'm aware of. I wouldn't say that.

17 Q. Okay. Graphic Arts sends photos, arrest
18 photos or CB photos, correct?

19 A. Correct. That's --

20 Q. Okay. You can take that down. Okay. I want
21 to ask you about -- I -- I'm close to being done. I
22 want to ask you about some leftover subjects, but I do
23 have to ask you. At the time you left the Chicago
24 Police Department, when you retired -- you indicated
25 that you did retire, correct?

1 A. That's correct.

2 Q. Okay. And it was just short -- a little bit
3 short of 30 years, correct?

4 A. A little bit shy of 30, but probably seven or
5 eight months beyond my full career service date, which
6 would be --

7 Q. What does that mean, your full career service
8 date?

9 A. Well, we can retire with full career service,
10 full pension at 29 years and one day. So, you know, if
11 you stay beyond that, essentially, you're just staying
12 to -- to stay because there's no -- you know, you're not
13 gaining any benefit, you know, other than a few more
14 dollars above what your pension would pay you, you know,
15 for sitting at home. So -- and that can happen at 29
16 years and a day. And I retired -- which would've been -
17 - for me, would've been 14 October of '14. And I
18 retired -- well, was it '14 or -- yeah, '14. Or '15,
19 rather. But anyway, I retired in May of the following
20 year, May of 2016.

21 Q. When you retired, were you facing -- oh, go
22 ahead.

23 A. About 29 years and about seven months.

24 Q. Okay. And you're collecting a full pension,
25 then, correct?

1 A. Correct.

2 Q. Okay. Are you collecting any other pensions
3 other than from the Chicago Police Department?

4 MR. STEFANICH: Objection. Form. I'm going to
5 instruct the witness not to answer. Actually,
6 can we just go off the record for a minute?

7 MR. SWAMINATHAN: Yeah.

8 THE REPORTER: Off the record.

9 (OFF THE RECORD)

10 THE REPORTER: Back on record.

11 BY MR. SWAMINATHAN:

12 Q. Mr. Wojcik, my question is whether you were
13 collecting any other pensions.

14 MR. STEFANICH: I'm going to object. We're not
15 asserting an inability-to-pay defense, so that
16 question is irrelevant, then, to this lawsuit.
17 And I don't know if that's where you're going
18 with these questions or not, but we're not
19 asserting that defense.

20 MR. SWAMINATHAN: Okay. I'm not intending to go
21 into the full punitive damages discovery, with
22 the understanding that we are putting off any
23 such discovery until after summary judgment to
24 the extent it becomes relevant, but I am just
25 specifically asking about whether he's collecting

any other pensions only to understand a little bit about his further employment, if any.

MR. STEFANICH: Okay. With that understanding, I'll allow him to answer the pending question.

MR. SWAMINATHAN: Okay.

THE WITNESS: Can you repeat --

MR. SWAMINATHAN: Go ahead.

THE WITNESS: Repeat the question one more time, please.

BY MR. SWAMINATHAN:

Q. Yes. Are you collecting any pensions other than from the Chicago Police Department?

A. No.

Q. Okay. That's what I thought it was. Okay. When you left the Chicago Police Department, when you retired in 2016, were you facing any pending investigations?

A. No.

Q. And when you left the police department in 2016, were there any investigations going on into your conduct?

A. No.

Q. Okay. When you -- have you had any prior instances in which you had sustained findings against you in the form of a complaint register or otherwise?

MR. STEFANICH: Objection to form. Foundation.

You can answer if you know.

THE WITNESS: Once.

BY MR. SWAMINATHAN:

Q. You said you had one sustained finding?

A. Correct.

Q. I can't hear you very well.

A. Yes. Correct, one.

Q. Okay.

A. One sustained, correct.

Q. And when was that approximately?

A. I don't recall the year exactly. When I was working in 14th District or thereafter. It was regarding a -- an incident in 14th District before I was detective. And sometime thereafter, it was a -- the complaint was sustained and I was reprimanded.

Q. Okay. And what was the reprimand that you received?

A. Just a reprimand. Just a "don't do it again" reprimand.

Q. This was this around 1988? Was it an operations or personnel violation?

A. I'm not sure what you mean by operations or personnel violation. It was in regards to the generation of a lost-and-found case report. We had

1 recovered a weapon, firearm off the street from the
2 leader of a gang. He had asked us to protect his
3 anonymity. In doing so, we prepared a proper report for
4 that weapon turn-in, which is on a lost-and-found, but
5 they found that, because I didn't name him as having
6 turned over the weapon and the location was not
7 accurate, that I had prepared a false official report.
8 But they remember --

9 **Q. And your -- go ahead**

10 A. -- stating essentially that we understand what
11 you were doing and that you were protecting the
12 anonymity of an informant, not just his anonymity, but
13 his personal safety at his request. And then we had a -
14 - so that's why we left his name off. And we had to
15 change the location because it -- had we pinpointed the
16 location that the weapon was turned over, being at Haas
17 Park in the 14th District, it would've identified that
18 it came from somebody in the Latin Lovers street gang.
19 So we changed -- we didn't put his name on the report as
20 having turned it in and we did not use the correct
21 address for the weapon turned in. And weapon was turned
22 in, properly inventoried, so basically they concluded
23 that, although they understood what we were trying to
24 do, nonetheless, it was a false official report because
25 we had intentionally left his name off and used a

1 different location. So therefore, they reprimanded,
2 which is no suspension or anything like that. It's just
3 a reprimand, basically, don't -- you shouldn't have done
4 this. Don't do it again.

5 Q. And so the finding eventually was, despite the
6 circumstances, that it was a false official report,
7 correct?

8 A. That's correct.

9 Q. And that was a Rule 14 violation?

10 A. I'm not sure if they deemed it Rule 14, but if
11 that's what it was, it should be reflected in the
12 documents for that. I don't recall it specifically if
13 it was Rule 14 or not, but a false official report.
14 Correct.

15 Q. Okay. And then who else was part of that CR
16 other than yourself?

17 A. It was my partner at that time, Detective
18 Vergara. Hector Vergara.

19 Q. And you said you got a reprimand, meaning you
20 didn't have any suspension or loss of pay, correct?

21 A. That's correct.

22 Q. Okay. And then did you have -- were you part
23 of a sustained CR finding related to the failure to pay
24 parking tickets in and around 1991?

25 A. Was not -- I brought records in indicating --

1 I don't recall if I indicated that it was not my vehicle
2 or whether that they were paid, but I supplied records
3 to the department and that was not sustained because
4 that was not true.

5 Q. And then in and around 1994, did you receive
6 any suspension related to a charge related to a -- an
7 incident involving physical abuse in an ex-girlfriend's
8 home?

9 A. In the end, no. An investigation -- a
10 preliminary -- or the investigation was first conducted,
11 and with a recommendation from then OPS, at the time,
12 that -- it was a sustained finding on their part.
13 However, I went to court. There was a summons obtained
14 by the alleged victim. I went to court and I also
15 provided documentation negating a lot of the
16 allegations, that being canceled checks for the
17 apartment, et cetera, showing that I was the actual
18 renter of the apartment, and also evidence that as --
19 part of the allegation was that the door was forced. I
20 had keys to the place, whereas the -- my ex-girlfriend
21 at the time did not have keys. She acknowledged that
22 she did not have keys, which indicated -- and court
23 testimony later that indicated that the door was forced
24 in the night prior to my arrival. So I had supplied
25 documents negating the sustained allegation, and in

1 addition -- so the suspension was held off. And then I
2 went to the review board for a hearing, and it was a
3 unanimous determination of not sustained by the review
4 board. So that case, in the end, was not sustained.

5 Q. So you originally got a sustained finding and
6 were -- the recommended discipline was five days
7 suspension, correct?

8 A. I don't -- I don't recall exactly. It's --
9 five days sounds probably right. I -- I -- it's been a
10 long time, but there was a recommendation for a
11 suspension. And in that time, I not only -- I did not
12 overrule the order, but I either grieved it, grieved the
13 finding, and then was summoned to court -- or I was
14 summoned to court prior to the suspension, and then I
15 also asked for the board hearing, review board hearing,
16 which I did go for the hearing again. In the end, it
17 wasn't -- unanimously, the board not sustained the
18 finding when they saw all the evidence.

19 Q. Showing you a document I will mark as -- let
20 me mark it first. Showing you a document I've marked as
21 Exhibit 18. It's RFC -- let's see. This is CR number
22 18 -- CR211634. This is the version -- this version is
23 Bates stamped RFC Abrego 3305 through 3490. There's a
24 version from the Fletcher file, but I had pulled this
25 one first, so I'm just using this version.

(EXHIBIT 18 MARKED FOR IDENTIFICATION)

A. I have some that says RFC Abrego 003313.

BY MR. SWAMINATHAN:

Q. Yeah. So you might have -- when I sent it over to you all, I had sent over a -- the fewer number of pages that I intend to actually focus on, but I -- I'm using as the exhibit the full CR. I have it up on my screen. If you need me to send you the full version, you can look at it. But why don't we start on my screen because I'm not going to spend a lot of time on the details here?

A. Sure.

Q. The --

A. Let me just look.

Q. The document that you have is -- begins on 3313, correct?

A. That's correct.

Q. Okay. And so that was the original finding from the chief administrator of the Office of Professional Standards, OPS, dated November 16, 1994, reaching a sustained file -- sustained finding against you for a violation of Rule 8, correct?

A. Correct. That's what it says on here, and I'm assuming that this was the original one. So it appears that --

1 Q. And the conclusion in this report was that --
2 you go to the last page, 3318 -- or second to last page.

3 A. Okay.

4 Q. It indicates you had a sustained finding for a
5 violation of Rule 8 for disrespect or maltreatment of
6 any person while on or off duty, in that -- on Saturday,
7 27 August '94, at approximately 0800 hours at 6148 North
8 McVicker. "Forced an entry to Rinda Tucker's apartment
9 and struck Peter Zefkiles," Z-E-F-K- I-L-E-S, "about the
10 head and face with his hands and/or an unidentified
11 object." That was the finding -- that was the original
12 finding by OPS, correct?

13 A. Correct. They sustained Allegation 1 and not
14 sustained Allegation 2, and I don't even know what day
15 that was at the time.

16 Q. I think that related to property damage,
17 correct?

18 A. I'm not sure. I -- I don't -- I'd have to --
19 but anyway, yes, it was back in 1994, the finding back
20 in November of 1994.

21 Q. Okay. And in that case, you denied that you
22 had struck Mr. Zefkiles with any unidentified object or
23 other object other than your fist, correct?

24 A. That's correct.

25 Q. And you denied that you had forced entry into

1 the home, correct?

2 A. That's correct.

3 Q. And you denied that you had instigated or
4 initiated any physical confrontation with Mr. Zefkiles,
5 correct?

6 A. That's correct.

7 Q. In other words, you stated during the course
8 of that investigation that you had only struck
9 Mr. Zefkiles in an act of self-defense, correct?

10 A. That's correct.

11 Q. Okay. And is that all true?

12 A. Yes, it is.

13 Q. Okay. And so it's your testimony to this day
14 that you did not initiate any confrontation with
15 Mr. Zefkiles, correct?

16 A. That's correct.

17 Q. And how did you enter the home that day?

18 A. The doors were open. I mean, I haven't read
19 through this file in years, but when I got to the
20 apartment, the -- I had keys. Again, I was the renter
21 of that apartment. So I entered the outer main entrance
22 door to that building. I don't recall if that main door
23 was open or I had to use my key. Normally, I would go
24 into that foyer. This apartment would've been the
25 garden apartment, going downstairs -- the basement or

1 garden apartment. So the door entering that apartment
2 would normally be locked, which I had a key for.
3 However, I found the door lock broken and the door was
4 not locked. It was unlocked. There was damage to the -
5 - to the locks -- lock or locks on the door. So that
6 right away, obviously a police officer, red flag. Now,
7 you go down a few stairs and there would've been a
8 second door to enter that apartment, which would
9 normally be wide open because the outer door would be
10 locked. Well, that door was closed, not locked --
11 either not locked or I used my key to get in there, and
12 that's when I walked in. I was concerned for Ms. Tucker
13 and her daughter, which is the reason I was going there.
14 I would go there on my days off. If I was off Saturday,
15 even though we were no longer seeing one another, I
16 would go and take her daughter, who I'd, you know, grown
17 fond of to breakfast on Saturday mornings was kind of
18 like a -- not a tradition, whatever, but something I
19 would do that, you know, we both enjoy. So I -- I walk
20 in and now I'm worried about what's going on with the
21 broken door, et cetera, et cetera. I call out for -- I
22 check Amanda's room, the daughter. Not in the bed. And
23 then I call out for Rinda, which is the -- Ms. Tucker's
24 first name. Then Mr. Zedfiles -- Zefkiles comes running
25 out of the bedroom pretty much running right into me.

1 And my, you know, automatic response was I just struck
2 him. You know, guy comes flying out, you know, running
3 right into me. I -- I hit him. And he continued
4 running out. And I waited there, didn't leave.
5 Eventually, police did come. And I was still there, did
6 not leave. And I gave the responding sergeant the keys
7 and I showed him that I had keys, turned them over to
8 him. And when they asked Ms. Tucker, she did not have
9 keys. And then later, at trial, it came out that --
10 indicated that because she had lost her keys the night
11 prior that, you know, they had to jimmy the locks in
12 order to get in there. So I did not damage any door. I
13 struck him once in what I would call self-defense. It
14 was a reactive strike. And that was that. That was it.

15 Q. Did you strike him with any kind of hard
16 object, like a metal pipe?

17 A. Nope, did not.

18 Q. And the conclusion of the OPS investigators
19 originally was, "The evidence collected in this case
20 constitutes a preponderance in favor of the physical
21 abuse allegation against Detective Wojcik. His account
22 of Zefkiles flying out of the bedroom and apparently
23 attacking him is not credible." That was the original
24 finding of OPS, correct?

25 A. That's what it says, sir. Correct.

1 Q. And then I'm showing you on my screen the
2 subsequent report from the detective division
3 headquarters dated December 7, 1994. And in that case,
4 the acting chief of the detective division, James
5 Maurer. Is that a name familiar to you?

6 A. Yes.

7 Q. Okay. And he indicated that an additional
8 fact, which must be taken into account, is that
9 Detective Wojcik has had no disciplinary action
10 administered to him for the past five years. Detective
11 Wojcik is a diligent, conscientious, hardworking
12 detective who's performed consistently and tenaciously
13 for his superiors throughout the years. And ultimately,
14 Mr. Maurer's statement at the end was that, "Given the
15 aforementioned facts of this investigation, although I
16 wholeheartedly agree that this allegation must be
17 classified as sustained, the disciplinary action is far
18 too harsh. I recommend the more reasonable and fair
19 disciplinary action to be taken against Detective Wojcik
20 via suspension of a period of two days with options."
21 See that?

22 A. Yes, I do.

23 Q. Okay. So he reduced the suspension from five
24 days to two days, correct?

25 A. That's what he recommended, yes.

1 Q. And the chief of the detective division also
2 agreed that the allegations against you were -- should
3 remain sustained, correct?

4 A. Well, he was the acting chief. I don't see
5 where Ruckrich, the deputy superintendent of bureau -- I
6 don't see a signature there. This appears to be the
7 review by Maurer that he forwarded to Ruckrich, but I
8 don't see the approval signature from Ruckrich on the
9 document that you're showing me anywhere.

10 Q. Okay. And then there was a -- on November --
11 I'm showing you now Page RC Arego 3309. And this is
12 November 20, 1997 and November 26, 1997 as well. And
13 this is from Investigator Michael Goldston. And he --
14 this was this was after your submission of some canceled
15 checks and some other information, as well as the trial
16 transcript in which the criminal charges against you
17 were discharged, correct?

18 A. Correct.

19 Q. Okay. And after the criminal charges against
20 you where you were discharged, Investigator Goldston,
21 with the approval of OPS Supervisor John Buchanan,
22 determined that after a review of the documentation
23 submitted by the accused, the undersigned concluded that
24 there's no basis to reverse the original sustained
25 finding of a Rule 8 violation, correct?

1 A. That's what it states, correct.

2 Q. Okay. So the finding was that remained,
3 unquote -- the finding "remain unchanged from the
4 original summary report dated October 27, 1994," which
5 found that you had -- that your that your version of
6 events had not been credible, correct?

7 MR. STEFANICH: Objection. Form.

8 THE WITNESS: Well, that's what they -- I don't
9 recall the exact words that are in the report
10 there, but that's -- they sustained it in '94: I
11 submitted the additional documentation obviously
12 here after court, canceled checks, the court
13 transcript, and whatever else I put in there, or
14 a letter, probably. I don't know what the letter
15 from Woodridge Department of Public Aid that
16 might have been something acknowledging that I
17 was paying for the apartment to Public Aid for
18 Mrs. Tucker. So yeah, what her -- what their
19 verbiage was originally, we have to go back in
20 there. But he's -- he maintained that he was
21 still sustaining the -- the allegation, even
22 though I turned in additional --

23 BY MR. SWAMINATHAN:

24 Q. And then in the -- go ahead.

25 A. Go ahead, I'm sorry. Even though I turned in

1 additional documents and evidence.

2 **Q. And what does it mean to have -- by the way to**
3 **have a suspension with options? What does that mean?**

4 A. Well, that would mean, okay, I could take a
5 two day suspension or stay -- you know, not go into work
6 and lose two days' worth of pay. Or if I had comp time
7 on the books, meaning like it's instead of overtime, I
8 had comp time, I could surrender two days' worth of comp
9 time and still go to work. So I would lose two days'
10 worth of pay essentially one way or the other, whether I
11 stayed home or I just reduced my comp time by two days'
12 worth of pay.

13 **Q. And then subsequent to these -- to the**
14 **original finding of the subsequent conclusion in 1997,**
15 **you then subsequently appealed this further, correct?**

16 A. Either during while this was all going on, I
17 grieved it. And that led to a hearing in front of the
18 review board. And again, I went to that review board
19 and as a final arbiter. And it was unanimous, once I
20 was able to speak, I provided them with all the
21 evidence, they had the file. Obviously they had
22 reviewed that. And I presented them with the new
23 evidence. And, you know, they had an option of talking
24 to other people, whatever they do, I don't know. But I
25 went in there, and the review board unanimously not

1 sustained it across the board.

2 Q. But then essentially the disciplinary and
3 sustained finding went away entirely after you aggrieved
4 it and went to that hear, correct?

5 A. Yeah. That should -- I don't understand why
6 that's not reflected in this file. It should have gone.
7 And it should have shown that it was not sustained. And
8 it was. I went to the review board.

9 Q. All right. Could you put that one to the
10 side? Did you have any involvement in the investigation
11 into the shooting of Laquan McDonald?

12 A. Yes.

13 Q. Okay. And what was your role in that
14 investigation?

15 A. Well, on the date of incident, I was contacted
16 by the area. I arrived at the scene for a short amount
17 of time. And subsequent to that short amount of time at
18 the scene, the only part I played in it on that night
19 going into the following morning was attempting to
20 locate next to kin for Laquan McDonald. I had nothing
21 more to do with that investigation until sometime later
22 when I was approached by Sergeant Gallagher, who was a
23 sergeant on the case. And he had informed me that he
24 had heard that 26th Street was subpoenaing people in
25 there for interviews regarding the case, and that it

1 appeared that that was being done unbeknownst to people
2 who were charged with the investigation, being us, the
3 area. At Area Central at the time. So I spoke to the
4 commander and informed him of that. He, I guess,
5 verified that. And at that time, he told me to tell
6 everybody involved in the investigation to stand down
7 because there was an outside the department
8 investigation being conducted without knowledge of the
9 department or participation of the department, including
10 IAD was not involved in that. It was the -- I believe
11 the U.S. attorney, the state's attorney that were
12 bringing people to 26th Street for interviews and grand
13 jury, et cetera, et cetera. So he told me to let the
14 individuals involved know to stand down and not do
15 anything more, not do any more investigation, not submit
16 any more paper or anything. And my next involvement was
17 when, months later or sometime later, corp counsel had
18 requested a meeting via area essentials commander
19 regarding the case, and I along with others were asked
20 by the commander then to attend that meeting. I came in
21 the date of the meeting with -- along with others. And
22 at that time, the commander told me that from downtown,
23 being the superintendent's office, I was not to be part
24 of the meeting, which I wasn't. However, after the
25 meeting, he called us in, and then I was told to oversee

1 the documentation of the incident. And also, we were
2 ordered to document the incident at that time because I
3 had protested and said, wait a minute, up until now
4 based on an investigation being going outside the
5 department and outside knowledge of those who were
6 working on the case, you properly told us to stand down
7 and not to submit paper because let's this -- let this
8 investigation be concluded one way or the other, and
9 then paper would be submitted. Now, because corp
10 counsel walked in the door and said that they had
11 received demand letters from attorneys, no lawsuit being
12 filed, just demand letters, now we're being told to
13 submit paper? I said that's not proper. The proper
14 thing was to do to stand down and not submit any reports
15 or anything or do any further investigation because U.S.
16 attorney and the state's attorneys are investigating
17 this absent of department. How now because corp counsel
18 got some demand letters can we be told to put paper in?
19 It's not consistent. You know? And then he says, well,
20 you're being ordered to put the paper in. And I asked
21 him by who? And he told me. I forgot who the -- I
22 believe was the deputy superintendent, not sure. And I
23 thought at that time that the person he named may -- I
24 might recall his name while we're talking here, was
25 somebody who had retired and was coming back as a

1 consultant. I said, well, he can't order us because
2 he's not, you know, considered law enforcement or
3 acting. And I was mistaken. He says, no, he's still a
4 boss, a police department member, and you're being
5 ordered to submit the paper. So I was ordered to oversee
6 the documentation, and that's what I did. But again, I
7 did not participate much in the scene investigation.
8 Matter of fact, the morning -- I got there, I don't know
9 what time I was notified, I got there late, maybe 11:00
10 -- between 11:00 and midnight on the night of incident.
11 And the next morning -- and I had been off prior to that
12 because of a surgery or whatever. So I had to go the
13 next morning to get a scan done. And I don't recall if
14 it was my neck surgery. I believe it was -- I had
15 throat surgery, whatever, and the scan was in regards to
16 that. So I really wasn't on the clock yet. I was going
17 to be returning from either time on the medical or days
18 off, I don't recall. And the next morning, I had to be
19 at 6:30 or 6:00 at the hospital. So I went in only
20 because they called and I wasn't aware that -- you know,
21 when they call, you go, because I didn't aware that the
22 -- anybody else had been called or not, so -- but my
23 involvement was minimal at that night. And then it
24 wasn't until I had contact from a sergeant involved and
25 I spoke to the commander, and he said to inform

everybody to stand down. And then my next involvement was when the corp counsel had requested a meeting. I was requested to be there. And then I was told not to be -- the day of the meeting not to go in there. But then after the meeting, was told to oversee and ordered to work with those involved on the third watch and getting the reports in.

Q. During the course of that -- the Laquan McDonald investigation, did you at any point have possession of three GPRs, general progress reports, containing detectives' notes of civilian witness statements?

A. Yes.

Q. And did you at any point dispose of approximately three GPRs containing detectives' notes of civilian witness statements?

MR. STEFANICH: Objection. Form.

THE WITNESS: Well, they were damaged beyond. You couldn't even -- you know. They were soaked with coffee. And disposing of them was kind of it was like a moot point because they were already destroyed. But did I scrape them up off the -- off the desk and drop them in the garbage? Yes.

BY MR. SWAMINATHAN:

Q. Okay. And so who spilled -- so the reason

1 you're saying you destroyed those reports is because
2 they were -- they had coffee spilled on them?

3 MR. STEFANICH: Objection. Form. Misstates his
4 testimony.

5 THE WITNESS: Correct. Again, I said I was
6 charged with getting a report in and we were
7 ordered to get it in quickly. And now after
8 standing -- told to stand down, we were ordered
9 to immediately get it in, which is -- there was
10 other things that could have been done in my
11 review, or should have been done, which we - -
12 again, nothing was being done because we were --
13 they were told to stand down and not do anything
14 on it. But then we were being ordered to put the
15 paper in, and almost on an immediate basis
16 nonetheless. So I was assisting detectives and
17 the sergeant involved on getting the reports in,
18 and I was typing up portions of the report off of
19 GPRs while I was -- sorry.

20 BY MR. SWAMINATHAN:

21 Q. Go ahead.

22 A. In doing so, I had typed up information from
23 those GPRs. And I don't know if we got called out on
24 another case or I had run out to lunch. When I came
25 back, there was spilled coffee, and it had saturated and

1 destroyed some of those GPRs. Some had coffee on it, I
2 was able to preserve those, pat them off, pat the coffee
3 off of them and preserve them. And those are to this
4 day part of the file. The ones that I couldn't do
5 anything more because the ink had been run and they were
6 pretty much attached to the desk, or lack of a better
7 word, they were just saturated. I couldn't even peel
8 them up, pick them up, or whatever. I then took those
9 and put them right into the garbage.

10 **Q. Who spilled the coffee on those reports?**

11 A. I have no idea. That -- that -- I came back
12 to the office, and that's the way I found the -- my
13 desk. The coffee was -- cup was, whatever, knocked
14 over, spilled over, whatever. And the documents that
15 were laying on my desk were saturated.

16 **Q. And so this was on the documents had been on**
17 **your desk, correct?**

18 A. The documents and also the mouse for the
19 computer was damaged because of the coffee.

20 **Q. And who else used that desk other than**
21 **yourself?**

22 A. Well, it's in my office, my desk, the door's
23 open. It's always utilized by people, you know, because
24 of, again, availability of computers. Sometimes they'll
25 just sit witnesses in there because there's no other

1 space available to house them. So the cleanup people go
2 in and out. So I have no idea who knocked the coffee
3 cup over. And --

4 **Q. Was it your coffee?**

5 A. I believe so. If I remember right, I had a
6 cup of coffee there at the time. And -- and came back,
7 and that was it.

8 **Q. Was -- did anybody ever fess up to being the**
9 **person who spilled your coffee?**

10 A. I never conducted an investigation. And
11 people were aware that were there that night. I never
12 questioned anybody. The assumption being somebody, if
13 they did it with knowledge, they would've stood the
14 coffee cup back up and tried to preserve whatever they
15 could. They wouldn't have just walked away. So I'm --
16 my assumption is that somebody incidentally, or it could
17 have been even me when I was putting my coat on going
18 out the door, and I might have swung the coat and
19 knocked it over, don't know. But my -- my belief is
20 that if somebody knew it, again, it could have been me,
21 that they would have, you know, addressed it
22 immediately.

23 **Q. Okay. And your testimony is that -- so the --**
24 **that you didn't keep the GPRs that had coffee spilled on**
25 **them because they were unusable, correct?**

MR. STEFANICH: Objection. Form. Misstates his testimony.

THE WITNESS: Because they were damaged and there was no -- the ink had run. You couldn't read them any longer. The paper was saturated beyond being able to peel it off or pat it dry. And again, like I said, other GPRs that were out there had coffee on them that I was able to blot the coffee off and preserve them, and those are in the file.

BY MR. SWAMINATHAN:

Q. And so how many reports -- how many GPRs was it ultimately that you threw away because the ink had run and you couldn't use them?

A. Well, I had already -- okay, when you're saying couldn't use them, I had already used them. I had already typed up the information from those GPRs into the report. So the GPRs in effect, what was on those GPRs, was already transferred into the report draft. So I did use them already. I utilized them to -- to their capacity of being able to type up what those detectives who took those GPRs were told by the witnesses. So I used them. Now, they were beyond preservation. When I -- I had no other -- you know, there was nothing I could do to save them, and those

1 three of them were disposed of. And the remaining ones
2 that I could preserve, that were also covered with
3 coffee, I did. And those are to this day part of the
4 file.

5 **Q. So it was three reports that you couldn't**
6 **salvage, correct?**

7 A. That is -- to my recollection, that is
8 correct.

9 **Q. Okay. And did you then rewrite those three**
10 **reports?**

11 A. I then wrote them because the commander had
12 told us, make sure there's all the GPRs are in there,
13 but not only for that reason. I did recreate those
14 GPRs, but I documented on there, clear as day, with
15 circles, that they were duplicate GPRs prepared by me.
16 So it's thoroughly documented and it's specified on
17 those particular GP that they are duplicates. And it's
18 my name, my star number circled to designate that they
19 were duplicated. That they were not the original GPR.

20 **Q. Did you -- is it your testimony, if I think I**
21 **just heard you say that your commander ordered you to**
22 **recreate or rewrite those GPRs?**

23 A. That's it. I said early on, when we were told
24 to get the paper done, he says to make sure that all
25 GPRs are part of the file. So I would've done this

1 anyway. It's not just that. I'm just saying that's a
2 part of it, where I didn't -- not, you know, and just
3 say, well, the hell with the GPR and -- and just put a
4 notation in the supp or a GPR on file saying the file
5 damaged. I specifically, and probably would've done it
6 regardless of what he had said or not, but -- and again,
7 on there it's specific, circled, duplicate. "These are
8 duplicate GPR prepared by Wojcik." So -- you know.

9 **Q. After you recreated the GPRs, did you show**
10 **them to the detectives who had written the original GPRs**
11 **to confirm their accuracy?**

12 A. Yes.

13 **Q. When did you do that?**

14 A. I don't know exactly. It was sometime post,
15 obviously, that incident, but prior to interviews that
16 were later conducted by the FBI. The FBI then at some
17 point was going to come in and, because they were
18 conducting an investigation, they requested to speak to
19 anybody and everybody who had anything to do with the
20 case via just on the scene or assisting in any fashion.
21 So I was charged with setting those interviews up,
22 making the detectives available, letting the FBI know
23 when to come in, and let the detectives know. And then
24 have the detectives review any documents that may have
25 regarded their participation. So sometime after --

1 after the GPRs were soiled, before the FBI, I did speak
2 to the detectives and they did review it. And they --
3 they did acknowledge that the case report and the GPR
4 reflected what those witnesses told them.

5 Q. And how did you -- how do you -- how do they -
6 - or how do you make them available for them for review?
7 You sent them a copy?

8 A. I believe I sat down with them at the area and
9 they looked at the report and the GPRs. Just like any
10 other officer that was going to be interviewed by the
11 FBI, they had requested -- the FBI requested that.
12 Pretty much, you know, so that they're prepared when the
13 FBI interviews them, to let them review what they had
14 done. So these officers or detectives had reviewed the
15 GPRs and the -- and the supp report in preparation for
16 interview with the FBI. And at that time in, you know,
17 I -- I didn't specifically say, hey, is -- is this the
18 same as what you signed? Because I knew it was what was
19 on the GPR because I typed up the supp off the GPR. So
20 I don't recall specifically asking them, hey, is this
21 accurate? Because I knew it was because what I had
22 typed in the supp was from the GPR, and the GPR that I
23 duplicated was the same information that would've been
24 on the GPR because I was then pulling it off the supp.

25 Q. So are you -- I want to be clear, are you

1 saying you did ask them to confirm that the information
2 was accurate or you did not?

3 A. I -- I don't recall if I did exactly or not,
4 but I know that there -- they -- let's put it this way,
5 when they looked at those documents, being the duplicate
6 GPRs and the supp report, in no way were they alarmed or
7 alerted or said, hey, man, I don't remember this. No.
8 And my assumption, because I didn't hear anything
9 otherwise from the FBI, is that they would've told them
10 that specifically, no, this is what was said based on
11 the -- the duplicate, or this is what we were told. So
12 at no point did anybody ever -- you know. And -- and I
13 know it was not a problem because what's in the supp is
14 what's in the GPR, and then what's on the duplicate GPR
15 is what was in the supp. So I -- I know it was the
16 same.

17 Q. When you were rewriting or recreating those
18 GPR, did you get them on the phone or get them in your
19 office to make sure that, as you were rewriting it, it
20 was accurate?

21 A. I don't recall specifically that I did that.
22 But why? Because I know it was accurate and that -- and
23 again, people on the floor saw. I wrote right on there
24 this is a duplicate GPR prepared by me. So why would I
25 need them to know it was accurate when it was taken

1 right off their GPR?

2 Q. How long -- was it within the first hours or
3 days after you recreated it that you informed them that
4 you had recreated their GPRs?

5 A. I don't recall exactly when I first alerted
6 them or not. I do recall that prior to the FBI coming
7 in, they were aware and they reviewed those documents.

8 Q. In fact, if the FBI had not been coming in to
9 conduct an --

10 A. And that I explained what had occurred and why
11 I had duplicated the GPR.

12 Q. If the FBI had not come in to conduct an
13 investigation, would they have learned that you had
14 recreated their GPRs?

15 MR. STEFANICH: Objection. Form. Foundation.

16 THE WITNESS: I'm assuming at some point they
17 would have.

18 BY MR. SWAMINATHAN:

19 Q. When you went to them with that information,
20 it was just before the FBI was coming in to interview
21 them, correct?

22 A. I don't recall exactly. What do you mean by
23 just before? Minutes before? Days before? Weeks
24 before? I don't know. I know it was after -- I was
25 then charged with setting up the interviews with the

1 FBI. And I was setting them up -- prior to the
2 interviews with the FBI, then I did meet with the
3 officers. And they were informed of it and they did
4 review it. When exactly, I couldn't tell you.

5 **Q. If the FBI had not been coming in to**
6 **conducting an investigation, would you have informed**
7 **those detectives that you'd rewritten their GPRs?**

8 A. Yeah, I don't see -- probably would have. I
9 mean, on the other hand, what -- what -- in my eyes were
10 it is what's was on their GPRs. So if it became a -- a
11 concern or whatever, then yeah. But would I have said
12 that? Probably. Probably. And if I remember
13 correctly, post submission of the report and prior to
14 the FBI, I believe I had some surgery done or something,
15 and I was off for a while. So that may have led to some
16 of the -- again, I don't know exactly when I -- I sat
17 down with them. But I think there was a time where I
18 was off in the interim on -- on -- for some surgery.

19 **Q. The GPRs that you rewrote for them, those**
20 **three GPRs, were GPRs containing their notes of their**
21 **conversations with witnesses to the shooting, correct?**

22 A. Incorrect. Because I don't --

23 **Q. Then please clarify for me.**

24 A. The -- I don't recall specifically what those
25 individuals saw or didn't see. But they were people

1 that they had interviewed.

2 **Q. Okay. So they were GPRs of those who had**
3 **heard this incident?**

4 A. Those that had heard shots or saw something. I
5 don't recall exactly. But yes, they were somebody that
6 were interviewed the night of incident as a --

7 **Q. As a witness.**

8 A. -- of some sort, be it circumstantial or
9 eyewitness. I don't know. I don't recall.

10 **Q. The interviews that were documented in those**
11 **GPRs, did you participate in any of those interviews?**

12 A. No. Because I did not return to the area that
13 night at all to -- I was not present in the area. I did
14 not participate in those interviews.

15 **Q. And so did you -- why didn't you have the**
16 **detectives be the ones to recreate their reports of**
17 **their own interviews?**

18 A. Because, again, we were ordered on short
19 notice to complete the file. And matter of fact, I
20 recall that it was late on the last night. And we had
21 even tried to extend that date because we just could not
22 get it done in a time frame after the corp counsel's
23 meeting. The time frame we were given, we could not
24 complete it. Again, there's other things going on. You
25 know, other investigations coming in. But we could not

1 complete it. We asked for a short extension, and I was
2 told to -- it was like either Sunday night, which would
3 be like Monday morning, I was -- I drove the file down
4 there because they wanted -- I was ordered to get that
5 entire file in in short notice, which included, like I
6 said, the duplicate GPRs. So whether or not, I don't
7 recall if those detectives were available in that short
8 time or not. And apparently they were not. Because if
9 they were sitting there when that happened, I'm sure I
10 would have told them, hey, can you do me a favor? I --
11 you know, your GPRs got wrecked. Can you guys re-
12 scribble them down? But again, I wouldn't have just
13 them scribble it down. It would have been a notation
14 that those were duplicated. So because of the time
15 constraints, we were told to get the entire file to, at
16 that time he was, then -- I believe he was commander.
17 He was the commander at Area Central when the incident
18 occurred, and then he became I believe deputy chief. I
19 had to run it down to his office. That would be Gene
20 Roy, Gene Roy's office. And it was, like, a 3:00 in the
21 morning on Monday morning because I was told it must be
22 in by -- when we come in Monday, you must have the file,
23 not just the supps, the complete investigative file, so
24 that they can forward it. And my understanding was that
25 was corp counsel that they wanted to get it for, not a

1 criminal investigative body, but, you know, corp counsel
2 was demanding it, which I thought was improper, because
3 of corp counsel having received demand letters from
4 civil attorneys that we were now, when we were told to
5 stand down, we were now being forced to hurry up and get
6 the file completed so corp counsel could have it, you
7 know, for whatever reason they -- they wanted to have
8 it. I thought that was improper. But nonetheless, I
9 did as I -- we were told to do. And we completed that
10 file and in short order, assembled it, and I took it
11 down and -- and brought it to the -- I believe he was
12 then deputy chief, I don't believe he was chief at the
13 time. But to Gene Roy's office downtown.

14 MR. SWAMINATHAN: Let's take a look at Exhibit
15 18. What is it? Exhibit 19. Sorry. This is
16 City NF -- City JF 6600 through 6640.

17 (EXHIBIT 19 MARKED FOR IDENTIFICATION)

18 MR. STEFANICH: He's got it.

19 MR. SWAMINATHAN: He got it? Okay.

20 BY MR. SWAMINATHAN:

21 Q. Let's turn to page -- this is the summary
22 report of the -- of investigation from the City of
23 Chicago Office of Inspector General, case number
24 15-0564, Lieutenant Anthony Wojcik, dated December 29,
25 2017. Have you seen this document before, sir?

1 A. I wouldn't know. How would I know? I --

2 Q. You don't know if -- you don't know if you've
3 ever seen this OIG report?

4 A. I have never received anything from the OIG.
5 This document you're showing me has no cover page, nor
6 does it have a signature page on who authored this. I
7 don't even know if this is an official document. I was
8 in a post-conviction hearing where another attorney
9 threw something similar to this at me and inferred that
10 this was an official OIG summary again. Where's the
11 cover page? Where is the authentic -- authentication
12 that this is an OIG document? She inferred at that time
13 that it was on the internet and that's where she got it
14 from. I -- I'm not --

15 Q. This is produced to me by the Chicago Police
16 Department.

17 A. Number one -- number one, looking at the
18 document in front of me, that is not an official
19 document as far as I'm concerned. And it's got probably
20 -- let's see. It says 2 of 37, so 37 pages that I would
21 have to analyze and I have nothing to compare it to. So
22 the -- the document I was shown at a post-conviction
23 hearing, which I was -- was inferred was on the internet
24 and asked about, how would I know if this is the exact
25 same or not? I don't even know who authored this. I

1 know --

2 Q. I'm not asking you about some post-conviction
3 hearing.

4 A. You asked me about this --

5 Q. Focus on my question. Focus on my question.
6 Have you reviewed this document before?

7 A. No.

8 MR. STEFANICH: I think he -- I think he's trying
9 to answer the question.

10 MR. SWAMINATHAN: No, he's not. He --

11 BY MR. SWAMINATHAN:

12 Q. No, but let's focus on my question. Have you
13 --

14 A. What is -- this -- no, I have not reviewed
15 this document because I don't know if I -- if -- if I
16 saw something that was similar to this in the past, how
17 would I know it's this document?

18 Q. Okay. Let's try a different question. Have
19 you -- are you aware that the Office of the Inspector
20 General conducted an investigation into your conduct
21 related to the Laquan McDonald shooting, correct?

22 A. I am aware that they subpoenaed me for an
23 interview. And I --

24 Q. And did you agree to -- did you --

25 A. I -- I never sat for an interview. I was

1 never contacted, nor was my attorney by the Office of
2 Inspector General to tell of any results of any findings
3 of anything that they had concluded or not concluded. I
4 don't know if they were subpoenaing me as a witness. I
5 was no longer with the department when I got that
6 subpoena.

7 Q. So let --

8 A. So how can -- for the administrative process
9 where their -- the extent of what they can do is
10 discipline an officer, I was no longer an officer. They
11 had subpoenaed me and I ended up never sitting for that
12 interview. So whether or not they drew conclusions or
13 not, they never contacted us. I am not going to answer
14 questions with something that somebody told me they got
15 off the internet and there's no --

16 Q. No, no. We're going to go through and we're
17 going to answer the questions. But let's talk about --
18 let -- but let's talk about your testimony. So --

19 A. And who -- I -- I'd like to know who authored
20 this.

21 Q. The Office of the Inspector General.

22 A. Who --

23 Q. This is a document produced to me, not by --
24 not from the internet. This is not a document that I
25 found or created. This is the document produced to me

1 by the City of Chicago. Those Bates stamps on the
2 bottom of the document were produced to me as a -- from
3 the City of Chicago, okay?

4 A. Okay. And where did the City of Chicago get
5 it from? There's nobody to state that. It's not signed
6 off by -- I don't see a signature page from the
7 Inspector General, nor any of his designees. I don't
8 see a cover page.

9 Q. So let me ask you. This document, Exhibit 19,
10 is it yours testimony that this is not the Office of
11 Inspector General's summary report? Or is your --

12 A. I have no idea.

13 Q. -- testimony that you don't know?

14 A. I have no idea. I don't know.

15 Q. Okay. Fair. Okay. Fair. Now, next
16 question. Did you come to learn anything about what the
17 findings were of the Office of the Inspector General
18 with regard its invest -- with regard to its
19 investigation into your conduct?

20 A. Specifically, no. But there was a point in
21 time where, at a post-conviction hearing in a petition
22 given to the judge, it referenced a, I believe, Chicago
23 Tribune article that findings were made. I contacted my
24 attorney who had dealt with the Inspector General when
25 they were subpoenaing me.

MR. STEFANICH: I'm going to instruct him not to answer --

THE WITNESS: Okay. I'm sorry. But specifically --

MR. STEFANICH: Based on -- hold on. Hold on.

THE WITNESS: I'm sorry.

MR. STEFANICH: I'm instructing not to answer based on any conversations you've had with your attorney.

THE WITNESS: Okay. Okay.

MR. STEFANICH: To the extent --

BY MR. SWAMINATHAN:

Q. Did you ever sit down and read any document that you understood to be the findings of the Office of the Inspector General?

A. No, never -- never received one. Never read one.

Q. Have you ever looked online to find a copy of this -- you knew that there was this investigation going on. It was kind of a big deal, right?

A. I -- okay. You asked me two questions. The first question, if I ever looked online, after the post-conviction hearing where an attorney stated and basically inferred that she got it off the internet, I went to the Inspector General's site to try to find --

1 see if I can find this document. It is nowhere on their
2 site. So I did try, could not find it. It is not on
3 their site. And I don't know again where she would've
4 gotten it from, nor do I know where this document here
5 came from. I've never seen an instance where there was
6 no cover page, no authentication of it, and signatures
7 of somebody signing off on that document. And that's
8 what is being presented to me here. And that's what was
9 -- a similar type thing was presented to me in the past
10 in the post-conviction hearing.

11 **Q. Okay. So when you indicated that the Officer**
12 **of the Inspector General tried to get you to sit for an**
13 **interview, correct?**

14 A. I don't know if I used the word tried to get
15 me to sit for it. They had subpoenaed me a request and
16 -- and -- to come in. It didn't say on a subpoena for
17 what reason, that I can recall -- recall.

18 **Q. Yeah. You -- then you refused to -- you were**
19 **-- you refused to comply with that subpoena, correct?**

20 A. Incorrect.

21 **Q. What did you do in response to that subpoena?**

22 A. I got the subpoena. I contacted an attorney.
23 Then we, via my attorney, in writing, told the Inspector
24 General's office I would make myself available
25 voluntarily. No need to -- the subpoena was not

1 necessary. If -- in fact, if the conduct of their
2 interview, I -- we asked that, okay, what is the conduct
3 of your interview going to be? And then we asked that
4 they follow the same procedures that they would use for
5 officers. If you want to interview me based on a police
6 admin -- administrative purposes, then for
7 administrative purposes, there is a contract, the
8 contractual way that those have to be presented meaning
9 like, how many hours could I be there? Where would we
10 do this at? Would I get a copy? Would you present me
11 with documents prior so that I can review them and --
12 and give you full testimony? Who can I have present?
13 Will I get a copy of it? All those things that are
14 designated in the -- in the contract for police
15 officers, which they would've had to do for anybody who
16 was still an active officer. Secondly, there is a
17 state law, a law enforcement bill of rights, which is
18 basically essentially, by law, states how those
19 interviews and investigations are to be conducted. So I
20 had asked that they just follow that. And fine, I'll
21 come in. They refused. We had -- we --

22 Q. They insisted that you sit for a deposition
23 under oath, correct?

24 A. What?

25 Q. They insisted that you sit for a deposition

1 under oath, correct?

2 A. I don't know if they'd call it a deposition.
3 They're calling in an interview.

4 Q. And it was supposed to be under oath, correct?

5 A. I'm assuming so.

6 Q. Yeah. And ultimately you refused to sit for
7 an under oath interview, correct?

8 A. Hold on, Counsel. You're cutting me off
9 because I said that in writing, okay? Then they said,
10 no, we're not going to do that. They did not describe
11 how they were going to proceed with the interview. So
12 then I told -- in -- in conference, in writing, we then
13 sent them a thing and says, well, look, then just
14 provide me with the documents or whatever you would like
15 to ask me questions about so that I can be fully
16 prepared to give you full answers to whatever you have
17 questions about. They refuse that. And after that --
18 which in writing we did. After they refused that, there
19 was no contact from them again. There was no, hey, come
20 on in. And I'm going to tell you, this was calculated.
21 In the six months' time that -- okay, eventually, so
22 about six months later after an inspector the special
23 prosecutors named and I -- possibly even after the
24 initial indictments where there was stating that the --
25 there was a coverup involved, and Detective March was

1 named. But anyway, after the special prosecutor was
2 formed, only then did the Ferguson's office move to
3 enforce the subpoena. So for six months, they didn't do
4 anything after I requested that then they just provide
5 me with documents. We acquiesced for that and said just
6 provide me with the documents so I can be ready to give
7 you full testimony on any questions you have. They
8 wouldn't do that. Nothing. And we had calculated that,
9 for the six months, there was like 20 days, maybe 25
10 days or whatever, that the ball was in my court,
11 meaning, okay, once you got to subpoena on this date, it
12 took us three days to respond. So there was three days.
13 They respond. We respond, yeah, he'll come in
14 voluntarily. They say no. Well, then we respond, okay,
15 send us the things. So we counted out the days it was
16 like 20 something days in entire six months that the
17 ball was in our court. The rest of the time was in
18 their court. They took no action. So only then --

19 **Q. You're --**

20 A. Hold on. Only then, after special
21 prosecutor's assigned or the buzz about the special
22 prosecutor or whatever, then he moves to enforce the
23 subpoena. And then he wants to say that I refused?
24 Well, at that point, looking at, I retire May 2016. I
25 think he subpoenaed me in June or July after retirement.

1 In April of 2016, that same Inspector General authored
2 the task force thing and -- and in that, he already made
3 findings that Laquan McDonald case, there was a use --
4 excessive use of force, et cetera, et cetera, et cetera.
5 He already made determination. And then he wants to
6 interview me. I was still willing to go in. But again,
7 he wouldn't supply me with the documents. He wouldn't
8 follow the - - the rights. And then for five, six
9 months, he's sitting on it. So at that point, when
10 special prosecutor -- taking into the effect that he had
11 already drawn conclusions prior to even contacting me
12 about the incident plus all the shenanigans about not
13 wanting to tell me the conduct of the investigation, the
14 conduct of the interview, nor supply me with documents
15 then a special prosecutor's assigned, my attorney
16 advised me just to, hey, man, I think it's best at this
17 point that you remain silent. So when he moved to
18 enforce it, we fought that based on other factors being
19 one -- number one, I'm no longer an employee. So how
20 can you force me to sit for an administrative interview,
21 which would have no bearing on my life in any fashion?
22 It's administrative. I'm no longer -- you could -- you
23 can't suspend me. You can't reprimand me. I'm not at
24 the department. Among other factors. When the judge
25 ruled in their favor only then did he send a letter that

1 he had advised me to exercise my right to remain silent,
2 given all those factors I just explained to you. Only
3 then did I not go in for the interview. So I was
4 willing more than once in writing to go in. And he sat
5 on it, waited. You know, they want to tell us -- and he
6 -- he fired people based on poor investigations and
7 untimely shit. And I'm sorry for getting angry, but how
8 untimely was he? He -- he waits until after I retire,
9 number one, then won't properly conduct the -- the
10 interview or investigation, or at least advise me of how
11 he was going to do it. Then he sat on it. And then
12 only when he got caught with his pants down and a
13 special prosecutor assigned and maybe somebody was then
14 going to wonder, well, why didn't you do your job, then
15 he tries to enforce the subpoena.

16 BY MR. SWAMINATHAN:

17 Q. You done?

18 A. I think so.

19 Q. Okay. Let's take a look at Page 32 of Exhibit
20 19. Let me know when you're there.

21 A. I'm there.

22 Q. Okay. If you look on -- there's a section
23 called Section 7, "OIG attempts to interview Wojcik." Do
24 you see that?

25 A. Yes.

1 Q. Okay. In the middle of that page, it says,
2 "On December 8, 2016, the City's corporation counsel,
3 through special assistant corporation counsel, filed a
4 complaint on behalf of OIG in the Circuit Court of Cook
5 County to enforce the subpoena." Do you dispute that
6 statement?

7 A. Okay. Where are you at? I -- I'm lost here.

8 Q. In the middle. In -- there's a paragraph, the
9 third paragraph in Section 7. You see that? Begins,
10 "OIG subsequently contacted O'Brien"?

11 A. Correct.

12 Q. Okay. In the middle of that paragraph,
13 there's a section that begins, "On December 8, 2016, the
14 City's corporation counsel, through special assistant
15 corporation counsel, filed the complaint on behalf of
16 OIG -- OIG in the Circuit Court of Cook County to
17 enforce the subpoena." Do you dispute that statement?

18 A. What do you mean, do I dispute the statement?

19 Q. That's true, right?

20 A. First off -- first off, huh, I have no idea,
21 Counselor. First off, I am objecting that I am
22 answering to some fricking document that I was told was
23 taken off the internet, not that is authenticated by
24 anybody.

25 Q. No. Let me be very clear. You -- don't

1 misstate the record. This is not a document that came
2 off of the internet. This is a document produced by the
3 City of Chicago, okay? So --

4 A. Produced by the City of Chicago, but authored
5 by who?

6 Q. This is off -- authored by the Office of the
7 Inspector General. Do you dispute --

8 A. But -- but where are you getting that from?

9 Q. Yeah, I'm --

10 A. Where's the signature page? Where --

11 Q. I'm representing to you that this is --

12 A. Where's the signature that you are --

13 Q. Okay.

14 A. -- certain that this was authored by the
15 Inspector General?

16 Q. Okay. So you've already indicated that you
17 don't know whether it's authored by the Inspector
18 General or not. Fine. Now, I'm asking you about the
19 contents of this document. You can tell me whether it's
20 true or not true. Is it true --

21 A. I don't know. I don't know the exact date.

22 Q. Okay.

23 A. I do know that after sitting on this for
24 months and after -- and a special -- a special
25 prosecutor, then he moved to enforce a subpoena. And I

1 said that earlier, okay? So the exact date, I don't
2 recall. But December would be about right, because the
3 first contact with me is June or July. And again --
4 well, no, no, no. Let me finish. 20 -- 25 days, 26
5 days, whatever it was that the ball was in our court,
6 then this guy did nothing. So that may be the proper
7 date, may or may not be. But again, he waited and
8 didn't do -- take any action. And then yes, he did try
9 to enforce the subpoena. Whether or not that December
10 8th is correct, I couldn't tell you.

11 Q. Okay. And then I -- the next thing it said,
12 the last sentence of that paragraph says, "On July 6,
13 2017, the court entered judgment in favor of OIG and
14 ordered Wojcik to comply with the OIG's lawful and
15 enforceable subpoena." Do you dispute that statement?

16 A. Yes.

17 Q. Okay. In what way did you dispute it?

18 A. Well, I dispute it, number one, because, first
19 off, I dispute it because I'm not sure the date. And I
20 will go back to, every question you're going to ask me,
21 I'm going to preface it by I don't know whose document
22 this is. You know?

23 Q. I'm not asking you about the document. I'm
24 asking you about the information --

25 A. I'm going to preface my answers with that.

1 **Q. Okay.**

2 A. That I am objecting to me answering to some
3 document that was found on the internet and/or produced
4 by the City, but nobody authoring -- tell me who
5 authored this or authenticating the document. Now, in
6 that sentence, it says, "On July 6, 2017, the court
7 entered judgment in favor OIG and ordered Wojcik to
8 comply with OIG's lawful and enforceable subpoena."
9 Well, let's argue about lawful and enforceable. I don't
10 know what the court concluded. I have no idea whether
11 the court said this is a lawful and an enforceable
12 subpoena. So I am not going to agree to that because I
13 don't know what the court said. I do know and you know
14 that --

15 **Q. Okay. Let me ask you a different question.**

16 A. I'm sorry.

17 MR. STEFANICH: We -- we're going to take a
18 break.

19 MR. SWAMINATHAN: I mean, it's -- we'll go
20 another two hours if we have to. We don't have
21 to take this long, but we can -- we'll take this
22 long and this is how it's going to go. Take a
23 break if you need.

24 THE REPORTER: Should I take us off record? Off
25 the record.

(OFF THE RECORD)

THE REPORTER: Back on record.

BY MR. SWAMINATHAN:

Q. Mr. Wojcik, did the court order you to comply with the OIG subpoena?

A. That's my understanding, yes.

Q. Okay. And did you inform the OIG through your Counsel that you would invoke your Fifth Amendment right against self-incrimination and would not appear for an interview with OIG?

A. I did not.

Q. You did not invoke your Fifth Amendment right?

A. I did not invoke my Fifth Amendment right against self-incrimination. I invoked my right to remain silent. I have nothing here to incriminate me in anything. Based on circumstances, I invoked my right to remain silent, period.

Q. And your Counsel wrote, "As a result of the court's ruling on OIG's complaint and as a special grand jury remains in session, I have advised Mr. Wojcik to remain silent pursuant to the constitutional right of every citizen to do so. Mr. Wojcik has elected to follow my advice and will remain silent." Is that true?

A. That is true. And again, it does not say against self-incrimination. I invoked to remain silent,

1 period.

2 Q. And if you look in the footnote there on Page
3 40 -- the Footnote 47 at the bottom of that page? It
4 says, "CPD records reflect that Wojcik initiated his
5 retirement on April 15, 2016, approximately one month
6 after OIG conducted its first subject interview of a CPD
7 police officer as part of its McDonald investigation."
8 Do you disagree with that statement?

9 A. Yes.

10 Q. In what way do you disagree with that
11 statement?

12 A. I don't know when they begin their interviews.
13 I don't know if this is accurate. I don't know if this
14 is -- again, where this document is from. So I am not
15 agreeing. I did initiate on April 15th and retired on
16 May 15th. I have no idea if it's approximately one
17 month after OIG conducted its first subject interview of
18 CPD police officer as part of its McDonald
19 investigation. So I do dispute that because I don't
20 have any idea when the OIG. Had I been -- okay. I'm
21 sorry. That's all. I'm disputing that.

22 Q. Okay. And do you -- when you retired from the
23 -- when you initiated your retirement on April 15, 2016,
24 did you have any knowledge that there was an OIG
25 investigation being conducted?

1 A. No.

2 Q. And when you retired, when you initiated your
3 retirement on April 15, 2016, did you do so in any part
4 because of the existence of an OIG investigation into
5 your conduct?

6 MR. STEFANICH: Objection.

7 THE WITNESS: No.

8 BY MR. SWAMINATHAN:

9 Q. And was there ever any City of -- strike that.
10 Was there ever any Chicago Police Department complaint
11 register or investigation into your conduct associated
12 with the Laquan McDonald investigation?

13 MR. STEFANICH: Object to foundation.

14 You may answer.

15 THE WITNESS: No. And if there was, I would not
16 gotten my credentials because you can't retire
17 and get credentials. If there was any open
18 investigations, be it OPS, police department,
19 IAD, et cetera, even if they are the
20 confidentials that are not supposed to be known.
21 I got my credentials because there was no --
22 there was zero investigations being conducted
23 into me at that time. And I was not aware of any
24 ongoing investigations by the OIG regarding this
25 incident at all at that time.

1 BY MR. SWAMINATHAN:

2 Q. Did the Chicago Police Department in any --
3 did any division or unit or agency within the Chicago
4 Police Department ever interview with regard --
5 interview you with regard to your conduct in the Laquan
6 McDonald investigation?

7 A. I'm sorry, repeat that question.

8 Q. Yeah. Did the OPS, COPA, or any other --
9 Internal Affairs, or any other disciplinary organization
10 within the Chicago Police Department ever interview you
11 regarding the Laquan McDonald investigation?

12 A. No.

13 Q. Okay. Go back to page -- go back to Page 20
14 of this report. I'm sorry, Page 19 of the report. Yeah,
15 on Page 19, do you see a person listed whose name is
16 Robert Garcia? I'm sorry, the first name. The first
17 name there, Eric Gonzalez. Do you see that name?

18 A. Yes, I do.

19 Q. Was one of the GPRs that you disposed of, was
20 it -- did it contain interview notes of Eric Gonzalez?

21 A. I -- I don't recall.

22 Q. The next name listed there is Robert Garcia --

23 A. As I sit here -- as I sit here at this moment
24 in time, I don't recall.

25 Q. Okay. The second name listed there is Robert

1 Garcia. Do you see that?

2 A. Correct.

3 Q. And the GPRs that you disposed of, was one of
4 them an interview of a man named Robert Garcia?

5 A. I believe it could be, but as I sit here at
6 this moment in time, I -- I don't recall with certainty.

7 Q. And then if you look on the next page, Page 20
8 of 37, there's a section that says, "OIG interview." Do
9 you see that?

10 A. Yes, I do.

11 Q. Okay. And then about halfway through that
12 paragraph, it begins, "Garcia said that he described."
13 Do you see that?

14 A. Yes.

15 Q. It says, "Garcia said that he described
16 McDonald's shooting as a 'execution' to CPD detectives,
17 but could not remember if he did so at the scene or at
18 Area Central." Did you -- in the GPRs that you
19 recreated, did you include information from Mr. Garcia
20 about describing the shooting as an execution?

21 MR. STEFANICH: Objection to form, foundation.

22 THE WITNESS: I don't recall, again at this
23 moment in time as I sit here, whether or not one
24 of the GPRs dealt with Mr. Garcia. I don't
25 recall anything regarding him stating it was an

1 execution. If that was on the GPR and he did
2 state that, then it would've been included. So I
3 don't even know if his GPR is one of them we're
4 talking about or not. Again, I don't remember
5 anything about anybody stating execution.

6 BY MR. SWAMINATHAN:

7 Q. Okay. And the next sentence says, "Garcia
8 said that the GPR of his interview, which stated that he
9 did not see McDonald get shot, was a misrepresentation
10 of his statement, because he told detectives that he did
11 see shots fired and that they were 'unnecessary.'" In
12 the GPR that you recreated, did you write that
13 Mr. Garcia did not see McDonald get shot?

14 MR. STEFANICH: Objection. Form, foundation,
15 misstates his prior testimony.

16 THE WITNESS: Again, I don't know whether or not
17 one of the GPRs in question were related to
18 Mr. Garcia's statement or not. So I couldn't
19 answer that question. And I don't recall
20 anybody's -- any of the -- my recollection of
21 any of those GPRs, I don't recall specifically
22 that statement there being part of the

23 GPR.

24 BY MR. SWAMINATHAN:

25 Q. Fair. And the statement that Mr. Garcia told

1 detectives that he did not see shots fired -- or strike
2 that. The statement that Mr. Garcia did see shots fired
3 and that they were "unnecessary," did you include that
4 information in the GPR that you created?

5 A. I -- I think I just --

6 MR. STEFANICH: Objection, that's been answered.

7 THE WITNESS: I just answered that question. You
8 just asked me that prior question and my answer
9 stands.

10 BY MR. SWAMINATHAN:

11 Q. Well, I asked you if you had written in the
12 GPR that he did not see McDonald get shot. Now I'm
13 asking you if you wrote that he did see McDonald get
14 shot.

15 A. That's a whole sentence there.

16 Q. And that they were unnecessary?

17 A. Again, my answer would be for that whole
18 sentence there. I don't recall if any of the GPRs in
19 question regarded Mr. Garcia. And at this time, as I
20 sit here at this moment in time, I don't recall anybody
21 or seeing any GPR where that was stated or that was
22 written on a GPR.

23 Q. Turn to Page 21 of this document. This is
24 Section 4 that says GPRs. It begins, "There are three
25 general progress reports that relate to the CPD

1 interviews of Gonzalez, Benitez, and Garcia. Each of
2 those GPRs has Lieutenant Anthony Wojcik's name and star
3 number listed under reporting officer's signature." Do
4 you deny that you -- the GPR you recreated were of
5 interviews of Gonzalez, Benitez, and Garcia?

6 A. I --

7 MR. STEFANICH: Objection. Asked and answered.

8 THE WITNESS: I'm not denying it. I don't recall
9 at this moment in time as I'm sitting here
10 whether they did or not involve those
11 individuals. It may have likely involved them.

12 BY MR. SWAMINATHAN:

13 Q. Okay.

14 A. I just don't have them in front of me and I --
15 I don't recall at this moment in time.

16 Q. Okay. Turn to page 28 of this document. The
17 -- 27.

18 MR. STEFANICH: 27 or 28?

19 BY MR. SWAMINATHAN:

20 Q. 27. You there?

21 A. Yes.

22 Q. Okay. And it indicates here that Mr. Torres
23 was a CPD detective assigned to Area Central's special
24 victims unit and Wojcik was one of Torres' assist --
25 lieutenants. Do you agree with that statement?

MR. STEFANICH: If you can just direct us to the paragraph on --

BY MR. SWAMINATHAN:

Q. Yep, second paragraph. Was Torres a CPD detective --

A. I don't recall -- okay. I don't recall. And which Torres are we talking about?

Q. I don't --

A. Can you have a first name?

Q. Do you recall a Detective Torres who --

A. I do. More than one.

Q. Under you? Was there one that worked in Area Central's special victims unit?

A. I believe he was. I thought -- I -- I don't know if he was special victims or not, or if he was on the floor as a violent crimes, but -- but very possible he was special victims at the time.

Q. Did you work -- was there a detective named Pete Torres who what -- worked as a detective on the Laquan McDonald investigation?

A. Correct, yes.

Q. And Mr. Torres wrote one of the GPRs that you disposed of and recreated, correct?

A. I believe he was one of the detectives. That's correct.

1 Q. Okay. And if you turn to Page 28, at the very
2 top of that page, it says, "Torres took notes on a GPR
3 during the interview, which took less than ten minutes."
4 And you can go back to the page before, but it refers to
5 an interview of Mr. Garcia by Mr. Torres. Do you have
6 any reason to dispute that Mr. -- Detective Torres took
7 notes on a GPR of his interview of
8 Mr. Garcia?

9 A. I wasn't there, Counselor, when he -- that
10 would've occurred. So I'm not going to dispute if
11 Mr. Torres did in fact say this. Again, I'm going to go
12 back to, I don't know who authored this. I don't know
13 who might have changed what's in here, coming off the
14 internet or not. It's not an authenticated report. So
15 if he did say that, then I -- that's what occurred. I
16 wasn't present. I don't know how long it took him to
17 take notes, so I can't answer for that one, Counselor.

18 Q. The next paragraph begins, "When shown the
19 GPR." D you see that?

20 A. Yes.

21 Q. Okay. He says -- it says, "When shown the GPR
22 related to the Garcia interview, Torres said that he
23 first saw the GPR in 2015 'when the FBI came to Area
24 Central to question CPD about the shooting.' The FBI
25 gave him a copy of the GPR. Prior to Torres's interview

1 by the FBI, Wojcik informed Torres via telephone that
2 Torres's original GPR 'had gotten damaged by coffee,' so
3 that Wojcik had to rewrite it and that the original was
4 destroyed." Did you contact Mr. Torres by phone before
5 the FBI came to Area Central to question him about the
6 shooting?

7 A. I may have. I don't know specifically whether
8 I did or not. But if Torres stated that, I have no
9 reason to dispute what he's saying.

10 Q. And when Torres -- and so when you contacted
11 Torres before the FBI was coming in to question him, you
12 -- that's when you informed him that his GPR had gotten
13 damaged by coffee and you had to rewrite it, correct?

14 A. Again, I'm not -- I can't recall whether or
15 not I did speak to him. If he's stating that, I'm not
16 going to dispute what he's stating if in fact he did
17 state that. I don't know. I do know I spoke to them in
18 person. I may have spoken to him on the phone also. So
19 I can't say one way or the other. I'm not -- you know,
20 it's -- I don't recall.

21 Q. And then it says -- the second to last
22 sentence is, "Wojcik told Torres that he rewrote the GPR
23 himself based off the copy -- coffee-damaged GPR." Did
24 you tell Detective Torres that you rewrote the GPR based
25 off of the coffee-damaged GPR?

1 A. I don't recall that, whether I did or not. And
2 again, as I told you earlier, from the GPR, typed it in
3 the supp. So if the interpretation can be that I typed
4 up what was on the GPR, it -- it is because it was typed
5 off that GPR pre -- pre-coffee damage.

6 Q. So you're acknowledging now that you didn't
7 type -- you didn't rewrite -- recreate the GPR by
8 looking at the coffee version of the GPR. You recreated
9 the GPR based off of your report; is that correct?

10 A. I --

11 MR. STEFANICH: I'm going to object.

12 THE WITNESS: Again, as I stated prior, the
13 report was typed up off the good, undamaged GPR.
14 It was already typed. When I came back to the
15 office and the coffee was spilled on there, it
16 was already typed up from the GPR. The GPR was
17 damaged beyond use, recognition. Ink had run, et
18 cetera, et cetera. Then and only then did I
19 recreate, duplicate the GPR from the supp, the
20 supp originally taken off the original GP -- or
21 was -- was transcribed from the original GPR.

22 BY MR. SWAMINATHAN:

23 Q. You look at the next paragraph, the first
24 sentence, "Wojcik never asked Torres to review the GPR."
25 Did you ever ask Torres to review the GPR?

1 A. I believe I did. I don't know where --

2 Q. And so where --

3 A. And I believe, as I stated earlier, part of
4 the process, when the FBI would come in, would be that I
5 would have given officers documentation so that they
6 could be prepared for the interview with the FBI. So
7 specific recollection with Torres, I can't state. I
8 know that in general, when -- when the interviews were
9 set up and I knew that the FBI was coming in and that,
10 okay, Officer or Detective So-and-So was going to be
11 here on third watch; you guys want to interview him.
12 He's going to be here on third watch. Can you guys be
13 here that day? Yes, we can. Then I saw to it that, in
14 general, that that detective would have received and
15 reviewed any documentation or stuff regarding his
16 involvement so that he could be -- be prepared when the
17 FBI came in to be interviewed by them. I don't recall
18 that I didn't make contact with the detective or tell
19 them what was going on or supply them or make sure that,
20 if I didn't supply them, that they had reviewed
21 documentation. Could something have slipped the cracks?
22 Possibly. But I don't recall that here. I recall, like
23 I said, getting them the documentation needed so that
24 they can review it prior to FBI arrival.

25 Q. If Torres told the OIG that he -- that you

1 never asked him to review the GPR that you rewrote, is
2 Torres right or wrong, or you don't know?

3 MR. STEFANICH: Objection. Form and foundation.

4 THE WITNESS: First off, you're telling me what
5 Torres told them based on a document that is not
6 authenticated by anybody. I don't know who wrote
7 this. I don't know what Torres told them. So I
8 am not responding to that, that that did occur
9 because I have no idea whether that occurred or
10 not. If you're asking me if it says it in this
11 document written by who knows who or altered by
12 who knows who, I have -- it's what it says in
13 here in this piece of paper, 37-page thing that
14 you are presenting to me as some type of official
15 document, which I am again disputing.

16 BY MR. SWAMINATHAN:

17 Q. So you're not claiming that you did in fact
18 ask Torres to review the GPR that you rewrote?

19 A. I believe I did.

20 Q. Okay. And then are you claiming that --

21 A. I know I did. I -- as a matter of fact, wait.
22 I spoke to both detectives prior to the FBI. They were
23 aware of the damage. And my recollection is that the
24 reports were reviewed and the duplicated GPRs, my
25 duplication of their GPRs, were also reviewed prior to

1 the FBI coming in. So that's my recollection, and I had
2 done that with -- not that I sat down with everybody,
3 but I saw that everybody, again, was provided with
4 documents so that they could be -- be prepared for when
5 the FBI come in there. So if I missed Torres, I -- I --
6 you know, I don't remember that. I don't remember not.
7 I feel that I did. And so again, based on my
8 recollection and my remembrance, I believe I spoke to
9 both of them prior, and it does state in here that I
10 spoke to them via telephone, at minimum, about the GPR.
11 So I don't know.

12 **Q. What was the -- when was it that you spilled**
13 **the coffee on the GPR? Was it in 2014, in 2015? When**
14 **was it?**

15 MR. STEFANICH: Objection. Form and foundation.
16 Misstates the testimony.

17 THE WITNESS: It was shortly before the reports
18 were completed, submitted for approval. Again,
19 we were on a short -- we were given a short time
20 to go from doing nothing on the case to getting
21 complete reports in and a complete file made up.
22 So it was a short duration of time. I don't know
23 the exact date, but it's not going to be long
24 before the report was submitted and approved.

25 BY MR. SWAMINATHAN:

Q. Okay. And then it says here on the same --

A. I -- I don't know. You may check the GPRs. I may have notated the date on there that I duplicated it. I'm not sure. It's possible I did.

Q. And then it says -- in the same sentence, it says, "Wojcik did not inform Torres of the damage to his original GPR at the time it occurred." Did you inform Torres of the damage to the original GPR at the time of that damage?

A. The day of occurrence, you mean?

Q. Yeah. The day of the occurrence or within a week of it. Did you tell him?

A. I -- I don't recall. I -- I don't believe I did. And I don't recall specifically whether I did or not at this time as I'm sitting here.

Q. The next sentence says, "When asked whether he found it unusual that Wojcik did not give him a chance to review the GPR, Torres responded, 'Well, this was a year later down the road, so I mean, I don't think -- I didn't think about asking him, can I see the that GPR now that, you know, at the time we were, like, like over a year ago.'" Do you -- would you say that -- would it be fair to say that it was a year or more from the time of the coffee spill to the time -- and you recreated the report, until the time that you informed Torres and

1 others about your decision to recreate the reports?

2 A. I don't know. I don't recall the time frame
3 involved, so I couldn't answer that with specificity as
4 I'm sitting here today at this time.

5 Q. Okay. Let's take a look at Page 30. Well, we
6 don't have to keep going through all this. Take a look
7 at the section -- yeah, at the bottom of Page 30,
8 there's a section about Svec. Do you know a Detective
9 Svec?

10 A. Beth Svec, yes, I do.

11 Q. Yep. And Detective Beth Svec was working on
12 the Laquan McDonald investigation, correct?

13 A. If I remember correctly, yes. She had been --
14 some part in it, yes. Assistance type part, I believe,
15 if I remember correctly.

16 Q. And then it says that -- in the second
17 paragraph, it says, "A few minutes after Svec arrived at
18 the scene, she saw three people up on a semi-truck in
19 the Burger King parking lot. Svec walked over to the
20 semi-truck, obtained contact information from the
21 individuals, and took a statement from each of them as
22 to what they had witnessed. Svec said she took notes of
23 the interviews on GPRs. She completed a separate GPR
24 for each of the three people." Do you see that?

25 A. Yes.

1 Q. Do you have any reason to dispute that Beth
2 Svec did interviews of these three individuals and took
3 -- and wrote GPRs in those interviews?

4 MR. STEFANICH: Objection. Form and foundation.
5 You can answer.

6 THE WITNESS: I have no idea. I wasn't there. I
7 didn't speak to her that night. I -- again, if
8 she stated that and I -- I believe that it did
9 come up during the FBI that she had conducted
10 some interviews. So I have no reason to dispute
11 that, that she did.

12 BY MR. SWAMINATHAN:

13 Q. If you look at the bottom of Page 34 --

14 A. I would add in there, you're leaving a line
15 out that, even according to her, if those are the three
16 same people, she said -- you know, where you're talking
17 about an execution earlier and the police told them
18 whatever, according to her even, in quotes, "None of the
19 three specifically saw the shooting."

20 Q. Yep. If you go -- yep. If you go down to the
21 third-to-last paragraph, it begins, "After arriving at
22 Area Centrals."

23 A. Yes.

24 Q. There's a sentence there that says, "Svec said
25 she handed in her GPR before she let the witnesses know

1 she was leaving." Do you have any reason to dispute
2 that Svec handed in her GPRs?

3 MR. STEFANICH: Objection. Foundation.

4 THE WITNESS: Again, I'm getting back to I don't
5 know who authored this report, who might have
6 altered this report, whether or not it's an
7 official report or not. If Beth Svec -- Beth
8 Svec were to stand in front of me and say that
9 she handed in her GPRs before she let the
10 witnesses know she was leaving that night, I
11 wouldn't dispute it. I have no knowledge to
12 dispute that, whether it occurred or not, but I
13 would not dispute her saying that if she said
14 that. I would not dispute it if she said that.

15 BY MR. SWAMINATHAN:

16 Q. And the bottom of Page 31 on the last
17 paragraph, "In September 2015, when Svec was at Area
18 Central to meet with the FBI or U.S. Attorney's Office
19 regarding the McDonald case, Wojcik told Svec that the
20 GPRs relating to her October 20, 2014 civilian witness
21 interviews had been lost." Did you inform Detective
22 Svec that the GPRs relating to her civilian interviews
23 had been lost?

24 A. No.

25 Q. You never told her that her GPRs had been

1 **lost?**

2 A. No. It was time for her interview, and she
3 told me that -- I didn't find documentation, being GPRs,
4 for her in the file. And she told me that there should
5 have been because she spoke to these people. And I said,
6 well, maybe they were lost. Maybe they were replaced.
7 Maybe they'll be found and located back in the file.
8 And I said, just inform the FBI when you're speaking to
9 them that you did prepare GPRs that we -- you know, that
10 you are unable to review for whatever reason. Either
11 they were lost, misfiled, will be found, or whatever.
12 So I did not approach her. She approached me to let me
13 know that the -- the GPRs, that she had prepared GPRs.
14 Because, in setting up her interview, I didn't locate
15 any. And then she -- when she came in for the interview
16 or at some point prior to her interview, she told me
17 that she had prepared. So she alerted me to the fact
18 that -- stating that she had prepared GPRs. Not in the
19 file. So don't know if they were misfiled, lost, don't
20 know what happened to them. But I told her, well,
21 chances are they'll turn up or whatever or -- you know.
22 But I said, do let them know that you did prepare, but
23 that we -- you know, they're not available right now.
24 We don't have them right now. So --

25 **Q. Do you know what happened to Svec's GPRs for**

1 those three interviews?

2 A. I have no clue.

3 Q. Did you ever have possession of them?

4 A. No, I did not.

5 Q. If you go to the next page, Page 32. We're
6 almost done here.

7 A. Okay.

8 Q. On Page 33 of this document -- well, let's go
9 to Page 34, 35 first. There's a section that begins,
10 "Wojcik's disposal of material evidence." Do you see
11 that?

12 A. Yes.

13 Q. It says, "With respect to the GPRs that Curran
14 and Torres completed at Area Central the night of the
15 shooting regarding their interviews of Gonzalez, Garcia,
16 and Benitez, the evidence reflects that Wojcik disposed
17 of the original GPRs while they were in his possession."
18 You agree with that statement, correct?

19 A. Again, I'm not sure of who the individuals
20 were. Like I stated earlier, Gonzalez, Garcia, Benitez,
21 I believe that it probably was those names, but I can't
22 say with specificity that those are the GPRs in
23 question. And I -- I've already told you that I did
24 dispose of those original GPRs. Well, essentially,
25 yeah, they were in my possession because I was using

1 them to complete the supplemental report. So yeah, with
2 the exception of positively stating it was Gonzalez,
3 Garcia, and Benitez, I'm not disputing that statement.

4 **Q. There's a -- the next sentence after this**
5 **parentheses, it says, "According to Curran and Torres."**
6 **Those are both detectives, correct?**

7 A. Correct.

8 **Q. "It was not until they were called for**
9 **interview by the FBI in or about September 2015 (nearly**
10 **a year after the original GPRs had been generated and**
11 **approximately six months after the CPD investigation of**
12 **the incident was officially closed) that Wojcik told**
13 **them that he had rewritten their GPRs without consulting**
14 **them, signed the reports with his own name, and had not**
15 **preserved the originals." That's all true, correct?**

16 A. No.

17 **Q. Okay. What part is not true?**

18 A. Well, first off, the wording is not -- is a
19 spin that's not entirely accurate. But let's go over
20 this. According to Torres, it was not until they were
21 called for an interview -- nearly a year after the
22 original GPRs? I don't know the time frame, as I stated
23 earlier. And six months? The investigation is not --
24 was not officially closed because the investigation was
25 going -- ongoing by the U.S. Attorney's Office and the

1 State's Attorney's Office. So that is false. The
2 investigation was not closed yet. We had submitted
3 paperwork, as far as we took it, under orders to do so.
4 Order court counsel purposes only after, again, having
5 been told to stand down prior to that. "Without
6 consulting them" sounds odd, but yeah, I did do it, and
7 I didn't call them that night and say, hey man, is it
8 okay if I -- or if I duplicate your GPRs? I signed the
9 reports with my own name, yes, to document the fact that
10 they were duplicates. So yes, I told you earlier I
11 signed it. I circled it, saying, "Duplicates, A.
12 Wojcik," 18 -- whatever my star was at the time, 481, I
13 believe. And "had not preserved the originals." Well,
14 that is correct. I told that to you. They were
15 destroyed. Nothing I can do.

16 Q. Where it says here that you -- well, strike
17 that. Did you -- strike that. It says here you
18 informed Curran and Torres in and about -- in or about
19 September 2015 about what had happened; is that true?

20 A. I -- again, I do not recall the time frame
21 specifically.

22 Q. Let's go to the next page, page 36. The first
23 paragraph, "Under Wojcik's supervision, the McDonald's
24 investigative team lost the GPRs Detective Svec
25 completed at the scene of the shooting regarding her

1 interviews of Gonzalez, Garcia, and Benitez. Wojcik was
2 aware of the lost GPRs, as he was the person who
3 informed Svec in an in-person meeting that her reports
4 were missing and then assured her that CPD would find
5 the reports. According to Svec, though, CPD never
6 located her GPRs, and those GPRs were not included in
7 the materials that CPD provided to OIG." Did you ever
8 find those GPRs of Detective Svec?

9 MR. STEFANICH: It's been asked and answered. You
10 can answer it again.

11 THE WITNESS: Personally, I did not.

12 BY MR. SWAMINATHAN:

13 Q. Did you ever document that her GPRs had been
14 lost?

15 A. The time of those interviews was post us
16 submitting the report that we were ordered to. So at
17 the time the reports were submitted and documentation
18 that we were ordered to put in was done, I wasn't aware
19 of any GPRs of Beth Svec. After that, because of the
20 ongoing investigation, we were not submitting any
21 paperwork to do that. However, you're stating this, it
22 was under my direction. I told Svec to make the FBI
23 aware of it. So it should have been documented by them
24 in the investigation that she stated she had completed
25 GPRs for witnesses that were lost or missing or

1 misfiled. So I'm disputing the fact that they were lost
2 because I don't know where they are. They could be
3 sitting in another file right now, just being misfiled.
4 And I don't recall assuring her that we would find the
5 reports. I don't know how I can do that and say, hey,
6 we're going to find them, assuring her of that. Whether
7 or not they have been located since, I don't know. I
8 have been away from the department now for years. The
9 file -- if somebody found them and now they're filed in
10 there, I don't know. And -- and I have no idea what the
11 CPD provided to OIG. I don't know how Svec can attest
12 to what the CPD included in the materials provided to
13 OIG anyway. They're putting it in a sense, that
14 "according to Svec." How would Svec know that? So
15 again, I'm looking at a document that I don't know who
16 wrote it, who altered it. And that sentence there alone
17 doesn't make sense, that how would Svec know what the
18 CPD gave the OIG?

19 Q. Oh, and sorry. I missed one on Page 31. "Svec
20 took Garcia to one office and Gonzalez and Benitez to
21 another." Do you have any reason to dispute that the
22 three interviews of Svec that were lost were of Garcia,
23 Gonzalez, and Benitez?

24 A. I have no idea. And again, my recollection is
25 I don't know the GPRs with certainty, the names of the

1 people associated with the GPRs in question. I would
2 not dispute Svec saying that, you know, she put one in
3 one office, one in another office, and her -- personally
4 dispute that, say that if she said that, that that
5 didn't occur.

6 Q. Okay.

7 A. But I have no knowledge of that. And as I sit
8 here today, I -- I have no knowledge of that at all.

9 Q. Okay. So you're not saying that Svec is wrong
10 when she says she interviewed Garcia, Benitez, and
11 Gonzalez, correct?

12 A. If Svec said that, correct, I wouldn't dispute
13 it at all.

14 Q. And so if you look at Page 36, in the middle
15 of that page, the third paragraph that says,
16 "Therefore." Do you see that?

17 A. On Page, I'm sorry, 36?

18 Q. Yeah.

19 A. Okay.

20 Q. "Therefore, under Wojcik's watch." Do you see
21 that?

22 A. Yes. Yes. Okay. What -- do you want me to
23 read the entire paragraph or --

24 Q. Oh, no, no, no. Yeah. You can read the
25 paragraph, but I'll just ask you the question that I

1 have.

2 A. Go ahead. Ask the question. Then I'll -- go
3 ahead.

4 Q. Yeah, you can look at whatever you need. Yeah.
5 Page -- that paragraph says, "Therefore, under Wojcik's
6 watch, the McDonald investigative team lost or failed to
7 preserve all six of the original GPRs that documented
8 Gonzalez, Garcia, and Benitez's statements to CPD on the
9 night of the shooting and failed to document the
10 circumstances through which those reports were lost."
11 Is it your testimony that is -- that it's just a
12 coincidence that the three GPRs that got coffee spilled
13 on them related to the same interviews or interviews of
14 the same witnesses that Svec had documented in her lost
15 GPRs?

16 MR. STEFANICH: Objection. Form. Misstates his
17 testimony. You may answer.

18 THE WITNESS: But again, I don't know who the
19 witnesses were with specificity that the GPRs in
20 question regarded.

21 BY MR. SWAMINATHAN:

22 Q. So if Svec's GPRs were about -- oh, go ahead.
23 Go ahead.

24 A. Whether or not this sentence states that they
25 were lost -- okay. Hold on. That documented it was on

1 the night of the shooting and failed to -- that if I
2 failed to preserve them on the night of the shooting, I
3 wasn't even at the area on the night of the shooting. So
4 that sentence is kind of suspicious in that, depending
5 on how you read it, are they accusing me of failing to
6 preserve all six of the original GPRs on the night of
7 the shooting? I wasn't even there. I wasn't at the
8 area. And failed to document the circumstances, that's
9 totally false. It's well documented. It's written
10 right on the GPRs that they are duplicates. So again, I
11 cannot believe this is an Inspector General's report
12 because I don't believe that they're so inept in that
13 they would make a statement, when, right on the GPR, it
14 says it's duplicated. So I document it right on that
15 GPR. So how can they say I failed to document? It's
16 ridiculous, but anyway.

17 Q. Yeah.

18 A. So I dispute that portion also.

19 Q. So if it turns out that the missing GPRs of
20 Svec are for Gonzalez, Garcia, and Benitez and the
21 coffee-stained GPRs are also of Gonzalez, Garcia, and
22 Benitez, that's just a total coincidence, correct?

23 A. Well, don't limit the coffee-stained GPRs if
24 those are, in fact, the three people, because as I
25 stated, other GPRs were also coffee-stained that I was

1 able to preserve. So I don't know what the coincidence
2 would be then because now we --

3 Q. The coincidence is that those were the only
4 three that couldn't be preserved.

5 A. But hold on. But those are not the only GPRs
6 that were coffee-stained, and the ones that I could
7 preserve are part of the file.

8 Q. Those are -- the only ones that couldn't be
9 preserved were those three, correct?

10 MR. STEFANICH: Objection. Asked and answered.

11 THE WITNESS: I am not sure because, again, I am
12 not sure -- I believe it was three that were not
13 preserved. I am not sure if that regards
14 Gonzalez, Garcia, and Benitez.

15 BY MR. SWAMINATHAN:

16 Q. Okay. Could you go to the last page or the
17 bottom of Page 36?

18 A. Sure.

19 Q. "For Wojcik's numerous violations of CPD rules
20 and regulations." Do you see that?

21 A. Yes.

22 Q. It says, "OIG recommends that CPD issue a
23 formal determination on OIG's findings and place this
24 report in Wojcik's personnel file for consideration in
25 the event Wojcik applies for reemployment with the

1 city." Did CPD ever issue a formal determination on the
2 OIG's findings as far as you know?

3 MR. STEFANICH: Objection. Foundation. You can
4 answer.

5 THE WITNESS: No, I was never informed of
6 anything by anybody, be it the OIG, the
7 department, anybody regarding any findings. And
8 that's another thing, Counselor. If this was a
9 report and is an authentic report by the OIG, why
10 wouldn't they have contacted my attorney or me
11 informing us of their findings? That's a simple,
12 common courtesy, not to find out about it in some
13 document that's in the -- on the internet, or
14 when I later go to court and somebody's
15 presenting as evidence in a post-conviction a
16 Chicago Tribune article that states that.
17 Ridiculous.

18 BY MR. SWAMINATHAN:

19 Q. No, I'm not showing you a Chicago Tribune
20 article --

21 A. Well, hold on. Let me finish.

22 Q. -- or anything from the internet.

23 A. Let me finish.

24 Q. I'm showing you a document produced by your
25 employer, the City of Chicago, your former employer.

1 A. It's not produced by them. By produced, do
2 you mean they -- they sent it to you? Where did they
3 get it from?

4 Q. Oh, this is produced from the City of Chicago,
5 the Police Department. This is your lawyers. The
6 lawyers for the City of Chicago produced this document
7 to me.

8 MR. STEFANICH: I'm going to object to that. It
9 misstates what happened here.

10 THE WITNESS: Okay. But do you know where they
11 got it from?

12 MR. STEFANICH: There's no questions --

13 BY MR. SWAMINATHAN:

14 Q. Ask your -- I would suggest you ask your
15 counsel if they're going to make a representation in
16 this litigation that this is a false or inauthentic
17 report. That's what I would suggest to you. Ask your
18 counsel if they're going to take the position that this
19 is a false, fake OIG report that they produced to me in
20 this litigation.

21 MR. STEFANICH: I would ask that you ask the
22 deponent some questions.

23 MR. SWAMINATHAN: I -- I'll ask you if you're
24 willing to represent anything on the record,
25 Brian, about whether this is an inauthentic and

1 fake document that was produced by the City of
2 Chicago, or Ms. Harris. Would either of you
3 represent that this is a false or fake document
4 that you -- that was produced to us in this
5 litigation by the City?

6 MR. STEFANICH: Anand, you know it's not
7 appropriate to ask other lawyers questions at
8 depositions.

9 MR. SWAMINATHAN: No. I mean, the witness wants
10 to know if this is a real or authentic document.
11 So Ms. Harris is counsel for the City of Chicago.
12 They produced this document in this litigation.
13 Are you prepared to make a representation that
14 this is a false document or fake or a doctored or
15 inauthentic document that the City of Chicago
16 produced in the litigation?

17 MR. STEFANICH: We're objecting to you using a
18 deposition to ask attorneys questions at a
19 deposition. Yes.

20 MR. SWAMINATHAN: Ms. Harris, will you -- are you
21 able to state anything about that?

22 MS. HARRIS: I will represent that it is Bates
23 stamped by the City and that we did purchase this
24 document.

25 MR. SWAMINATHAN: Okay. Anything else?

MR. STEFANICH: Yeah. I think that's completely inappropriate to ask attorneys questions at a deposition.

MR. SWAMINATHAN: Okay.

MR. STEFANICH: I know our rules allow it, and we object.

MR. SWAMINATHAN: I'm just -- your witness is asking the question about the production of the document from the -- from his own counsel, his own defense team. I mean, you could -- you guys could easily clear it up for him if he wants to sort of evade the questions by suggesting that this is a fake OIG report. But if you guys don't want to clear it up, that's okay.

MR. STEFANICH: Okay. Do you have any more questions?

BY MR. SWAMINATHAN:

Q. Yeah. The -- in this paragraph, it indicates, "OIG further recommends that CPD, based on its findings, rescind Wojcik's retirement identification card and retirement star." Did you have your retirement identification card or retirement star rescinded?

MR. STEFANICH: It's been asked and answered. You can answer again.

THE WITNESS: No, I did not. I was not informed

of any findings, never, by the Inspector General or anybody else. Nor was my retirement identification card or retirement star, whatever word they're using here, based on finding, rescinded. And again, if I was subject to any investigation, any open investigation, period, whether it was because somebody said I -- I used a bad word in front of them or regarding the Laquan McDonald, I would've not have been -- had received my retirement identification card and star because I would've been under investigation, as stated earlier.

BY MR. SWAMINATHAN:

Q. And did anyone from the Chicago -- did -- strike that. Did any agency or organization or division of the Chicago Police Department ever conduct an investigation into your conduct either before the OIG's findings or based on the OIG's findings related to the Laquan McDonald case?

A. Ask the question one more time, Counselor. I lost you there for a second.

Q. Yeah. Did any unit or department within the Chicago Police Department ever conduct any investigation into your conduct related to the Laquan McDonald shooting before or after the OIG recommendations?

1 A. So that would be an inter-department
2 investigation, meaning non-OPS, non-IPRA, non-OIG. No.
3 And --

4 Q. No?

5 A. And not even those was I aware of.

6 Q. Okay. So neither the internal disciplinary
7 organizations nor the independent agencies conducted any
8 investigations, correct?

9 A. Correct, that I'm aware of. There was nothing
10 going on.

11 Q. And you never -- and you were never
12 interviewed about it by anybody from CPD, correct?

13 A. That is correct.

14 MR. SWAMINATHAN: Okay. I have no further
15 questions.

16 MR. STEFANICH: Okay. We'll reserve signature.

17 THE REPORTER: Sorry. Can you repeat that?

18 MR. STEFANICH: Yeah. We're going to reserve
19 signature. No questions for me. Reserve
20 signature.

21 THE REPORTER: Any other follow-up?

22 MR. SWAMINATHAN: No, I -- any of the -- I assume
23 no other counsel from the -- no other follow-up
24 from any of the counsel on the defense side.

25 THE REPORTER: Okay. And before I get off

1 record, how would you like your transcript today,
2 Mr. Swaminathan?

3 MR. SWAMINATHAN: None.

4 THE REPORTER: Sorry?

5 MR. SWAMINATHAN: No order from me.

6 THE REPORTER: Sorry? Repeat that.

7 MR. SWAMINATHAN: No order from plaintiff.

8 THE REPORTER: Okay. And, Mr. Stefanich, would
9 you like to order a copy of the transcript?

10 MR. STEFANICH: No, I don't.

11 THE REPORTER: All right. I'll take us off
12 record. We are off the record at 7:02 p.m.

13 (DEPOSITION CONCLUDED AT 7:02 P.M. CT)

1 CERTIFICATE OF DIGITAL REPORTER

2
3 I do hereby certify that the witness in the foregoing
4 transcript was taken on the date, and at the time and
5 place set out on the Title page hereof, by me after
6 first being duly sworn to testify the truth, the whole
7 truth, and nothing but the truth; and that the said
8 matter was recorded digitally by me and then reduced to
9 typewritten form under my direction, and constitutes a
10 true record of the transcript as taken, all to the best
11 of my skill and ability. I certify that I am not a
12 relative or employee of either counsel and that I am in
13 no way interested financially, directly or indirectly,
14 in this action.

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20 

21
22 CARLI GROSSMAN,

23 DIGITAL REPORTER/NOTARY

24 MY COMMISSION EXPIRES: 04/16/2028

25 SUBMITTED ON: 07/08/2024

Exhibits	171:13	11:55 7:8 9:22, 25	251:15,16	1971 173:25
Exhibit 1 Wojcik 63:17,18,19 64:19	Exhibit 15_ Wojcik 189:4,5	11th 92:19 142:3 196:3 197:18	16 174:7 193:11,12,14 208:20	1972 173:8 175:17
Exhibit 2_ Wojcik 67:5,6, 20	Exhibit 16_ Wojcik 193:11, 12,14	12 155:10 156:14,25 157:9,16 166:13,20,24 168:16,23 172:10 173:7	17 127:25 128:25 129:6 195:18,21	198 195:19 1982 175:12 1986 19:4,5 1988 203:21 1990 21:5 112:14 128:15 148:17,22 152:12 153:8 155:9 162:15 169:21 170:3 186:22
Exhibit 3_ Wojcik 76:20 78:5,6 85:8,9 86:12	Exhibit 17_ Wojcik 195:18, 21	129 127:10 12:40 79:8	1761 167:8 1767 167:8 179 131:7,11 132:11 17:26 128:1 17th 128:4	1991 159:23 160:2,9,18 205:24 1992 155:19 1994 206:5 208:20 209:19, 20 213:3 215:4
Exhibit 4_ Wojcik 84:13, 16,19 100:7	Exhibit 18_ Wojcik 207:21 208:1 234:14, 15	12th 142:5 156:19 157:2	18 80:21 81:23 82:7 173:11 175:17 207:21, 22 208:1 234:15 272:12	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 5_ Wojcik 91:6,9, 10 112:17	Exhibit 19_ Wojcik 234:15, 17 238:9 245:19,20	13 19:5 167:11, 14 130 127:10 1320 131:23 1322 131:23	180 132:12 181 132:13 182 131:7,11 132:16 133:6 19 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15	2005:24 1992 155:19 1994 206:5 208:20 209:19, 20 213:3 215:4
Exhibit 6_ Wojcik 95:23, 24 96:5 112:16	0	134 113:7,15, 18 135 113:7,18 13th 19:6 14 169:19,23 171:13 200:17, 18 205:9,10,13	182 131:7,11 132:16 133:6 19 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 7_ Wojcik 113:7,8 116:11 127:15, 16	003313 208:2 00:00 117:20 118:12 0800 209:7 08231415 66:8	140 135:16 1435 108:1 147 135:16 14th 203:13,14 204:17 15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 8_ Wojcik 127:6,7	1	15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 9_ Wojcik 131:8, 11	1 63:18,19 64:19 67:22 68:2 69:3,4 171:14,18 180:14 194:20 197:13 209:13	15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 10_ Wojcik 135:16, 18 188:8,9	10 135:16,18 188:9 100 40:1 46:19 10:00 16:12 10:30 132:18 10:55 9:23 11 142:1 156:2, 4 159:8,13 11:00 220:9,10	15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 11_ Wojcik 156:2,4 159:8,13	10 135:16,18 188:9 100 40:1 46:19 10:00 16:12 10:30 132:18 10:55 9:23 11 142:1 156:2, 4 159:8,13 11:00 220:9,10	15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 12_ Wojcik 166:13, 20,23,24 168:16,23 172:10 173:7	10 135:16,18 188:9 100 40:1 46:19 10:00 16:12 10:30 132:18 10:55 9:23 11 142:1 156:2, 4 159:8,13 11:00 220:9,10	15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 13_ Wojcik 167:11, 14	10 135:16,18 188:9 100 40:1 46:19 10:00 16:12 10:30 132:18 10:55 9:23 11 142:1 156:2, 4 159:8,13 11:00 220:9,10	15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20
Exhibit 14_ Wojcik 169:19	10 135:16,18 188:9 100 40:1 46:19 10:00 16:12 10:30 132:18 10:55 9:23 11 142:1 156:2, 4 159:8,13 11:00 220:9,10	15 31:23 161:4 187:13 189:4,5 200:18 251:5, 23 252:3 15-0564 234:24 153 189:4 1563 166:24 1569 166:24 158 189:4 15th 145:6	199 79:8 80:21 82:8 94:15 112:14 116:14, 21,25 117:19 118:12 124:22 174:1 175:10 234:15,17 238:9 245:20 253:14,15 190 64:10,19 191 195:19 192 196:20,21 199:9,14 1920s 22:6 193 196:17,19 197:3,4 199:7 194 197:4 195 197:4 1963 169:8 172:14 1964 174:13 197 197:4	1995 69:8 70:13,19 94:15 108:10 112:14 116:14,22,25 124:22 1997 214:12 216:14 1999 79:8 86:11 19th 117:8,9,22 118:20,22 119:17 120:2,4, 20

82:8 149:23 154:13 187:10 214:12 243:9, 16 248:4 253:13 254:7 268:20 20-CV-04-768 7:15 20-year-old 187:12 20-year-olds 187:11 2000 58:21 2000s 23:8,10 2001 58:21 159:20,23 2002 19:25 20:11,21 21:4 38:1 42:6 58:15,24 59:1 62:10 63:8,12 127:25 128:25 129:6 142:2,9 146:7 148:17 152:13 155:10, 11,16 156:15, 25 157:9,16 186:22 190:7 2004 155:18 2008 23:12 2014 264:13 268:20 2015 259:23 264:13 268:17 271:9 272:19 2016 129:16 200:20 202:16, 20 243:24 244:1 246:2,13 251:5,23 252:3 2017 234:25 248:13 249:6 2024 7:7 20s 170:10 172:15 175:22 176:2 186:17, 18,21	20th 7:7 21 82:9 132:21 133:8 169:21 170:3 256:23 21st 136:15 22 69:8 70:12, 19 82:9 2373805 132:18 24 74:17 190:6 24-hour 74:14 24th 136:16 25 80:21 81:2,7 243:9 248:4 26 174:15 186:8 214:12 248:4 26th 217:24 218:12 27 80:21 81:2,7 169:11 172:15 186:9 187:20, 24 209:7 215:4 257:17,18,20 27-year-olds 188:5 28 257:16,18 259:1 29 200:10,15,23 234:24 <hr/> 3 <hr/> 3 76:20 78:6 85:9 86:12 172:14 173:24 194:22 30 66:21 80:21 81:8 149:24 169:8 184:2 200:3,4 266:5,7 30-picture 177:17 30s 31:1 176:7, 9 31 268:16 274:19	32 186:22 245:19 270:5 33 270:8 3305 207:23 3309 214:11 3313 208:16 3318 209:2 34 267:13 270:9 3490 207:23 35 270:9 36 272:22 275:14,17 278:17 37 235:20 254:8 37-page 263:13 38 107:25 3:00 233:20 <hr/> 4 <hr/> 4 84:13,16,19 100:7 256:24 40 187:12 251:3 40202 7:6 40s 31:1 4544 156:2 4566 193:15 4569 193:15 4577 193:15 4578 193:16 47 169:20 251:3 481 272:12 <hr/> 5 <hr/> 5 20:4,9 21:1,7, 9 22:5 91:6,9, 10 92:18 98:17 112:17 114:18 115:3,16 174:12 196:8,9,	10,12 5' 49:6 5,500 22:20 50 49:22 176:8 51 169:20 52 96:1,5 108:1 5511 132:22 133:9 553789 68:16 581033 89:11 <hr/> 6 <hr/> 6 95:23,24 96:5 107:25 112:16 161:11 175:10 191:10 248:12 249:6 600 60:6 603937 128:16 6148 209:7 62 76:15,21,23 82:15 90:7 63 169:15 64 174:20 65 84:25 650 196:4,6,10, 12 197:18 651 196:11 652 196:11 66 76:13,15,22, 23 81:2 6600 234:16 6640 234:16 67 81:2,7 82:16 68 81:8 69 81:23 82:7 6:00 220:19 6:30 220:19	<hr/> 7 <hr/> 7 113:7,8 116:11 127:16 151:6 155:11 180:15,16 185:9 197:5 213:3 245:23 246:9 7' 49:5 70 82:7 700 60:6 71 82:8 710 7:5 72 82:8 73 82:9 7:02 285:12,13 <hr/> 8 <hr/> 8 127:6,7 175:12 177:24 178:23 181:11 187:17 208:22 209:5 214:25 246:2,13 8-year-old 187:21,24 8-years-old 181:21 85 76:14,16,24 86 19:6 84:15 8:48 157:9 8th 248:10 <hr/> 9 <hr/> 9 131:8,11 90 132:21 133:8 169:15 91 155:19 94 209:7 215:10 95 39:4 117:19
--	---	--	---	--

96 84:15	acknowledge 228:3	admin 241:6	173:21 174:14, 23 186:8,11,24 187:8 188:3	11,22,24 121:11,20,23 122:6,8,17 123:1,12,13,19 124:16 127:15, 19,21,25 128:4, 9,12 129:2,5,9, 17 130:24
97 91:5,10 112:23	acknowledged 206:21	administered 213:10	agencies 284:7	
98 67:5	acknowledgin g 215:16 261:6	administrative 99:15,16,22 100:18 123:21 137:21 237:8 241:6,7 244:20, 22	agency 253:3 283:15	
99 67:5,8	acquaintance 153:11 155:2 176:24 182:17 184:14 185:6	administrative ly 21:12,24 117:12	ages 30:25 173:14,15 175:23 184:1	alerted 229:7 230:5 269:17
A				alerts 113:21 114:5 117:11, 25 118:6,10,16 119:12 122:6 123:10,22 129:11,20,22
A-N-T-H-O-N-Y 9:17	acquainted 149:19,20,21	administrator 37:11,18,23 208:19	aggrieved 217:3	aliases 68:8
a.m. 7:8 79:8	acquiesced 243:5	administrators 38:1,4	ago.' 265:22	alibi 27:22
abilities 36:2	acquire 154:22	admits 31:7	agree 9:2 34:6 124:12,14 128:20 182:3,8 185:8 213:16 236:24 249:12 257:25 270:18	allegation 206:19,25 209:13,14 212:21 213:16 215:21
ability 10:19 12:12 36:11 39:20 40:25 41:22 58:16 146:2	act 210:9	adult 80:9 83:22,25	agreed 8:4 9:4 214:2	allegations 206:16 214:2
Abrego 207:23 208:2	acting 37:23 213:4 214:4 220:3	adults 84:4,7	agreeing 251:15	alleged 206:14
absent 153:22 154:18,19,23 219:17	action 213:9, 17,19 243:18 248:8	advanced 27:9 90:10	agreement 7:25	altered 263:11 268:6 274:16
abuse 206:7 212:21	active 22:14 29:10 85:5 93:4,10 118:6 120:17 121:20 122:2,6 127:19 129:14 145:20 241:16	advice 18:17 250:23	ahead 14:4 26:20 29:1 39:23 41:5 59:7 69:2 106:21 149:6 158:9 160:24 185:17 200:22 202:7 204:9 215:24, 25 222:21 276:2,3,22,23	Amanda's 211:22
abused 30:25	actively 87:10	advise 245:10	Aid 215:15,17	Amendment 250:8,12,13
accept 32:22 175:24	actual 137:23 194:7 206:17	advised 244:16 245:1 250:20	air 87:18 102:6 104:25 114:9	American 187:2,5
access 99:14, 25 146:9	add 134:21 267:14	Affairs 253:9	AKA 147:11	Americans 49:10
accidentally 121:15	added 130:20 134:25	affected 28:23	alarm 34:25	amount 52:12 53:19 137:6 138:2 217:16, 17
accommodate 50:13	addition 45:17 93:5 207:1	affirm 9:8	alarmed 229:6	analysis 22:18
account 29:22 212:21 213:8	additional 167:18 213:7 215:11,22 216:1	aforementione d 213:15	alert 94:5 113:3,11,19 114:12,14,15, 22 115:1 116:3, 10,21 117:3,14 118:19 119:2,4,	analyze 235:21
accuracy 227:11	address 80:5 90:3 204:21	African 49:10 187:2,5		Anand 7:19 281:6
accurate 204:7 228:21 229:2, 20,22,25 251:13 271:19	addressed 224:21	afro 42:22,23 52:7,8,14,15,25 53:10,15,21 54:16,17,20,25 55:2,9,23		and/or 155:2 193:4 209:10 249:3
accused 214:23		afros 52:9 53:2,7,16 54:18 55:1,13,18 56:1		
accusing 277:5		age 49:21		

angry 245:7	133:2 144:23	24:9 25:17	178:2,4,14	arrived 217:16
anonymity	160:3,13	27:7,15 30:4	179:21 180:18,	266:17
204:3,12	167:16 168:11	72:5 91:24	23 182:11	arriving
answering	170:5 175:1	92:11,18 98:11,	183:7 184:20	267:21
180:4,12	187:24 193:20,	17 110:11	185:4 186:2,4,	Arthur 164:19
246:22 249:2	23 208:24	114:18 115:3,	16,18 187:19	172:21,24
	214:6	16 146:25	191:8 194:18	173:11,21
answers 10:20	applies 278:25	156:19 196:8,9,	array's 184:4	article 238:23
11:13 242:16	approach	10,12 217:16	arrays 37:9,16	279:16,20
248:25	18:11 23:20	218:3,18 228:8	42:9 43:16	arts 196:3
Anthony 7:9,	33:25 269:12	232:12,13	48:20 58:14	197:11,12,15,
11 8:25 9:3,17	approached	233:17 254:18	146:13 167:25	17,18 198:3,5,
136:6 234:24	29:9 217:22	257:23 258:12	191:3	6,23 199:15,17
257:2	269:12	259:23 260:5	arrest 51:14	ASA 132:15
anybody's	approval	267:22 268:17	59:12 62:6,7	188:12,13
255:20	122:1 123:11,	270:14 277:3,8	65:4 66:7,12	Asary 132:19
anymore	13 133:14	areas 22:19	67:8 68:5,21	ascertain 86:8
27:25	138:6 214:8,21	24:3,7 25:13	69:13,17,21	164:6 182:23
apartment	264:18	26:3 27:6	70:8,9,16,17	183:12
206:17,18	approve	Arego 214:11	73:8 77:9,11,18	ascertained
209:8 210:20,	121:12 122:1	argue 56:3	78:7,19 85:14,	97:11
21,24,25 211:1,	123:22 139:18,	166:8 182:21	23 88:25 89:1,	asks 114:19
8 215:17	20	183:17 184:2,7	14,21 92:1	assault 32:2
apologize 9:25	approved 17:8	249:9	93:21 101:2,11,	45:14 95:13
apparently	18:10 19:22,24	armed 146:22	14 114:23	assaulted
64:6 141:10	20:16 122:20	Arnold 146:21	115:4,21	34:16
212:22 233:8	130:11 131:22	147:11 164:8,	117:16,17	assaults
appealed	136:12,15,18	19 165:19,23	119:6 124:13,	138:12,13
216:15	138:20 139:8,	166:2,4,7	18 128:18,21	assemble 63:5
appearance	12 190:6,9	167:17 172:13	142:19 145:23	assembled
7:16 186:25	264:24	array 43:5 44:3	146:2,3,12	234:10
187:9 188:4	approving	57:21,24 58:4	158:1,7,18,19	asserting
appearances	12:21,22 20:21	59:3 60:1	159:11,19	201:15,19
184:12	136:20 137:2,	102:13,17	160:1,7,17	assign 92:23
appeared 84:4	16 139:11,12	103:3,6,21	196:16,17,21	assigned
112:5 162:14,	approximately	104:7,9 106:18,	197:8 199:7,17	71:24 130:13
20 166:11	23:9 169:11	20 107:4	arrested 62:16	243:21 244:15
218:1	174:1,3,7,10	108:11 109:21	66:21 69:13	245:13 257:23
appearing	175:17 203:11	110:3 111:19	73:10,12 91:22	assist 114:3
7:21,22 8:17	209:7 221:15	147:9,10,14,16,	92:16 115:24	198:10 257:24
appears 67:8,	251:5,16	20,21,25 150:1,	142:3,12,18	assistance
20 69:17 77:17	271:11	11 152:4,9,25	144:9 145:3,6	72:17 266:14
78:7,16,22	April 108:1	153:1,3 160:19	158:11	assistant
82:21 87:7 88:9	159:19 160:1	161:13,18,20	arresting	246:3,14
96:5,8 102:21,	244:1 251:5,15,	163:3,8 164:21	68:23	
24 106:15,17	23 252:3	165:24 166:9,	arrests 86:25	
114:17 124:17	arbiter 216:19	14 167:13,16,	87:4,5 101:7	
127:14 132:11,	area 20:4,8,25	20,22,24 168:5,	110:14 146:17,	
12,13,16,23	21:7,9,12 22:5,	7 169:2,3	22 158:2	
	13,24,25 23:2	172:11 173:10	arrival 206:24	
		175:11,16,21	262:24	
		176:1,5,6,20		
		177:17,23		

assisting 222:16 227:20	attorney's 143:10 144:7, 13 168:19 268:18 271:25 272:1	186:6 199:16 220:20,21 224:11 230:7 236:19,22 252:23 263:23 273:2,18,23 284:5,9	bad 112:10 178:2 179:23 283:8 bag 115:6 balance 180:1, 10 bald 53:1,3,4, 16,17 55:10,11, 13,24,25 175:1, 3,7 176:17 177:12 ball 243:10,17 248:5 Band-aid 56:20 57:6,7 bangers 33:5,7 bare 119:15 barring 159:18 base 33:22 based 22:18 23:24 29:17 31:1,18 46:11 63:5 66:8 69:15 70:9 101:15 102:25 105:13 110:19 115:24 118:21 121:4 124:14,22 129:1 138:20 139:18 140:21, 24 143:13 153:13 157:12 158:13 171:23 172:9 177:20 183:14 184:9, 15,19 189:20 219:4 229:10 239:5,8 241:5 244:18 245:6 250:16 260:23, 24 261:9 263:5 264:7 282:19 283:4,18 basement 210:25 basically 26:8 46:5 62:5 65:6 73:10 80:19 81:4,5 93:14	101:10 116:24 117:2 131:13 142:21 147:5 171:17 185:22 198:23 204:22 205:3 239:24 241:18 basics 30:14 basis 31:23 59:6 65:14 74:4 198:14 214:24 222:15 Bates 166:19, 24 167:5 207:23 238:1 281:22 bathroom 58:9 batteries 138:12 bearing 244:21 beat 133:9 bed 211:22 bedroom 211:25 212:22 begin 9:12 251:12 beginning 98:9 begins 141:25 208:15 246:9, 13 254:12 256:24 259:18 267:21 270:9 behalf 8:16 246:4,15 behavior 44:17 belief 34:14 48:9 71:2,17 118:25 224:19 believed 111:25 112:6,7 117:1 believes 125:8 belong 145:11, 15
association 79:25 103:10	attorney-client 18:14			
associations 80:2	attorneys 8:21 39:8 140:14 144:17 191:23 219:11,16 234:4 281:18 282:2	<hr/> B <hr/>		
assume 11:19 62:17 157:17 284:22	audio 8:8,9,10 August 79:8 159:19 160:1 209:7	back 18:24 22:5 23:5 24:4, 9,21 25:18,22 27:5 28:6,9,13 34:23 38:17,21, 23 50:15 58:12 60:18 61:10 64:2 65:9,15,18 69:24 72:10,12, 22 73:8,14,24 74:5,7,19 75:7, 12,25 80:3 81:23 83:22 86:24 87:1 102:8 105:6,14 107:8 114:10 115:15 117:13, 25 118:5 119:1, 14 122:7 126:13,23 129:19 135:8 140:7 148:8 149:2 156:18, 23 157:14 161:7 170:3,18 171:12 172:8, 10 176:15,16, 20 188:7 190:16 191:7 192:4 193:24 194:5,12,17 195:16 201:10 209:19 215:19 219:25 222:25 223:11 224:6, 14 248:20 250:2 253:13 259:4,12 261:14 268:4 269:7		
assumes 155:14	authentic 235:11 279:9 281:10			
assuming 168:13 208:24 230:16 242:5	authenticated 246:23 259:14 263:6			
assumption 71:2 111:12 152:18 224:12, 16 229:8	authenticating 249:5			
assured 273:4	authentication 235:11 240:6			
assuring 274:4,6	authored 235:6,25 237:19 244:1 247:4,6,14,17 249:5 259:12 268:5			
attach 69:15 114:1,2,12	authoring 249:4			
attached 94:2 223:6	automatic 212:1			
attacked 36:19	availability 89:18 154:21 162:8 223:24			
attacking 212:23	avoided 54:12			
attempt 134:2 135:13	aware 12:6 25:24 37:16,18 38:4,7 73:16 106:3,5 115:18 137:12 139:16 144:16 155:6 160:16,21			
attempting 217:19		background 18:25 backwards 62:15		
attempts 245:23				
attend 218:20				
attending 7:17				
attest 274:11				
attorney 44:20,25 47:7, 21 105:8 144:1 166:17 192:6 218:11 219:16 235:8 237:1 238:24 239:9, 23 240:22,23 244:15 279:10				

benefit 200:13	block 39:5	180:17 185:9, 11 238:2 251:3	build 170:13	calling 14:7 99:3 190:3 242:3
Benitez 257:1, 5 270:16,20 271:3 273:1 274:20,23 275:10 277:20, 22 278:14	blocks 102:4	266:7 267:13 268:16 278:17	building 210:22	calls 15:18 18:13 24:18 25:15
Benitez's 276:8	blot 225:8	box 66:2 80:4 124:8,19 138:22	bulk 26:5	cancel 92:16 129:9
bet 150:10	board 207:2,4, 15,17 216:18, 25 217:1,8	boxes 65:19 73:19 137:17, 25 138:1	bunch 35:8 52:2,9 183:8	canceled 129:7 206:16 214:14 215:12
Beth 266:10,11 267:1 268:7 273:19	body 132:3,8, 18 234:1	braided-type 194:24	bureau 214:5	cancellation 91:13,14
Biebel 99:12, 20,25	Bogucki 7:11 20:18,20 92:20, 21 94:14 96:9 114:17 117:1, 17 118:3,8,19 119:10,17 121:4,14,23 124:23 132:13 134:17 136:6 138:17 139:1 160:17 179:5 184:21 189:17, 19 191:10 193:4	braids 194:25	business 70:6 71:22	candidate 25:10
big 36:16 81:18 87:13 135:10 137:15 239:20	break 11:21,23 58:9 71:8 126:10,11,12, 14 195:12 249:18,23	breakfast 211:17	busy 25:17 72:16	candidates 27:7
bill 241:17	Bogucki's 132:17,24 133:3,6	Brian 7:22 13:22 64:10 67:12 76:12 84:13 95:25 113:13 131:7 135:17 166:14 193:11 195:20 280:25	buzz 36:16 243:21	capability 63:12
bin 134:1	bold 114:24 119:19 150:5	Brian's 76:14	<hr/> C <hr/>	capacity 117:24 225:21
biologist 34:12	bones 119:15	briefly 10:9 13:19	calculate 169:14 173:21 181:17	capitalized 95:18
birth 90:2 168:3,9,11,21, 23 169:5,8 172:13 173:7, 20,25 174:6 175:11,16 178:22 181:19 182:3,9 183:18 184:15,16,19, 23 186:3,13	book 60:3,6,7, 8,10,17,21 61:23 182:25 183:6	bring 102:6,7 105:6 115:13 140:19	calculated 173:16 181:20 185:3 242:20 243:8	caps 76:16 78:23 79:1 94:21
bit 54:12 75:6 167:6 200:2,4 202:2	booking 65:5	bringing 218:12	calculating 184:1	capture 117:15
black 59:6 61:19,20 62:21 104:24 107:25 170:15 171:9, 10 172:3,5 198:15 199:12	books 59:21, 24,25 60:4 216:7	bright 41:8	call 14:23,24 22:9 25:25 69:18 85:12 90:13 92:10 105:9 106:18 115:15 175:3,7 191:24 211:21, 23 212:13 220:21 242:2 272:7	car 49:8 72:1 105:14 115:18
Blacks 147:17 163:10 170:10 183:15	born 174:13,20 175:10	broken 211:3, 21	called 27:15 28:3 69:11 85:16 90:13,20, 21 111:14 114:5 144:1 198:14 218:25 220:20,22 222:23 245:23 271:8,21	card 282:20,22 283:3,10
blank 135:2,7	boss 220:4	brought 142:12 205:25 234:11		care 26:15
bless 23:2,5	bother 34:2	Brown 146:20		career 200:5,7, 9
blind 37:11,18, 22,25 38:4 39:4	bothered 24:19	Buchanan 214:21		careful 36:10
	bottom 80:18, 23 130:1,2 131:18 145:22 157:4,6 178:5, 12 179:7			Carli 7:3 8:4
				carried 157:18
				carry 65:21 66:2 74:12
				carrying 76:5
				case 7:14,24 14:2 15:20,24 16:25 17:21 18:8,12 20:7, 12,16,22 21:5,

11,13 22:2,5,7, 11,15 23:1,6, 13,15,21 24:1, 3,8,9,10,13,19, 24 25:2,4,5,6, 10 26:1,21,22, 23 27:14 29:9, 19 30:3 34:2 37:12,14 41:2, 3,10,16,20,24 42:4 44:21 46:9,12 53:19 58:20,21 66:7 68:7 69:1,3 72:14 82:11 85:18 92:17 95:2,20 96:12, 24 97:2,6,14 98:4,16,19 99:4,24 105:22 106:6,24 114:23 115:11 124:12 128:20 129:21 135:10 137:5,12,13,14 138:13 139:5, 10,16 140:14 142:13 143:8, 24 145:2 147:4 149:25 150:13 159:6 160:9 163:24 168:7, 22 174:25 182:18 186:4, 21 189:24 195:4 203:25 207:4 209:21 212:19 213:3 217:23,25 218:19 219:6 222:24 227:20 228:3 234:23 244:3 264:20 268:19 283:19	catch 145:10 catching 117:24 caught 124:4 245:12 cautious 95:17 150:6 caveat 158:6 CB 59:7 65:4 66:20,24 70:9, 10 159:8,12 197:8 199:6,18 CB'D 158:16 CBS 159:4,5 CCSAO 167:8 central 65:5 218:3 233:17 254:18 259:24 260:5 268:18 270:14 Central's 257:23 258:13 Centrals 267:22 certainty 17:6 87:11 118:8 132:23 140:18 152:15 171:21 254:6 274:25 cetera 39:9 47:23,24 53:20 73:13,15 77:16 81:3 87:21 114:10,11 138:1 177:6,7 198:20 206:17 211:21 218:13 244:4 252:19 261:18 challenge 105:8 challenges 37:8 chance 31:24 126:25 183:24 265:17	chances 269:21 change 30:16 37:9,25 38:3 53:13 108:21 124:10 176:13 204:15 changed 53:22 108:19 109:9 204:19 259:13 characteristic s 55:5 176:5 177:5 184:18 charge 206:6 charged 37:13 141:8 145:4 218:2 222:6 227:21 230:25 charges 24:21 41:16 142:16 214:16,19 charging 21:20 check 8:20 22:12 87:19 93:4 95:7 98:21,24 100:6, 25 101:6,9 110:11 115:22 116:15 123:21 137:22 142:19 146:12 211:22 265:2 checked 66:2 95:10 101:4 114:8 124:8 145:23 checking 159:4 checks 206:16 214:15 215:12 Chicago 7:12, 13,21,23 8:17, 18 9:23 19:1,15 64:20 79:6 93:9,15 168:1 199:23 201:3 202:12,15 234:23 235:15	238:1,3,4,22 247:3,4 252:10 253:2,3,10 279:16,19,25 280:4,6 281:2, 11,15 283:14, 16,23 chief 26:22 208:19 213:4 214:1,4 233:18 234:12 child 161:4 circled 226:18 227:7 272:11 circles 226:15 Circuit 246:4, 16 circumstance 30:6 39:2,11 104:18 149:13 197:10 circumstance s 38:14 39:19 41:6 46:10,11 61:11 138:3 139:21,22 149:13 151:24 152:6 154:11, 18 155:1 162:17 177:20 184:9,10 205:6 250:16 276:10 277:8 circumstantial 232:8 citizen 250:22 city 7:12,13 8:17 22:19 37:21 64:10,19 67:5 76:13,15 84:15 91:4,10 93:9 96:5 113:7 131:7,11 135:16 156:2 169:20 189:4 193:15 195:18 234:16,22 238:1,3,4 247:3,4 249:4 252:9 279:1,25	280:4,6 281:1, 5,11,15,23 City's 246:2,14 civil 37:1 234:4 civilian 50:25 56:10 117:23 118:11,20 221:11,16 268:20,22 civilians 71:22 74:15 99:23 117:12,22 119:14 claiming 263:17,20 clarified 44:24 clarify 9:20,23 36:23 231:23 classification 92:3,8 94:10 134:22 137:18, 19 141:17 classified 141:12 213:17 cleanup 224:1 clear 58:3 98:6 141:14 167:12 170:23 226:14 228:25 246:25 282:11,14 cleared 98:6 136:1,2,24 139:24 141:12, 16 170:23,24 171:2 188:8 191:7,10 clearer 167:6 clearing 91:22 click 88:24 89:25 90:11 Clinton 66:8 67:2 82:13 98:11 101:1,5, 16,21,23 102:18,20 103:5,15 106:22 107:23,
---	---	---	--	---

25 108:3,7,8 110:3	264:13 265:24 276:12	common 56:23 279:12	concerned 211:12 235:19	192:20
Clinton's 98:20 108:2	coffee- damaged 260:23,25	commonality 84:10	concerns 29:22 38:11 39:20 40:25 41:22 167:21	confident 44:6,18,22
clock 220:16	coffee-stained 277:21,23,25 278:6	commonly 195:4	concluded 204:22 214:23 219:8 237:3 249:10 285:13	confidentials 252:20
close 38:20 74:6 149:11 154:10,24 160:9 162:5,14 174:23 186:24 195:12 199:21	coincidence 276:12 277:22 278:1,3	comp 216:6,8, 11	conclusion 27:1 209:1 212:18 216:14	confirm 152:1 227:11 229:1
closed 21:11, 17,24 141:14, 16 211:10 271:12,24 272:2	cold 20:7,12,22 22:2,7,15 23:1, 6,13,15 24:1,3, 7,13 25:2,4,5, 10 26:21 29:9 98:16,18,19	compare 235:21	conclusive 27:13	confirms 41:14
closer 38:21 154:2,20 186:13	collar 171:24	compilation 106:17	conclusions 237:12 244:11	conflating 186:2
closest 47:5 162:18	collar-length 170:14 171:15 177:14	complainant 144:24	concrete 125:6	conflicts 167:8
closing 12:20, 23 16:21 17:7, 20 18:9 97:24 98:6 135:17,24 160:15 161:11 163:7 170:18, 23 188:7	colleague 25:7	complaint 145:7 202:25 203:16 246:4, 15 250:19 252:10	conditions 12:3	confrontation 210:4,14
clothes 28:13, 14 50:25 105:11	collected 212:19	complete 17:2 232:19,24 233:1,23 264:21 271:1	conduct 36:2 150:1 167:25 168:4 190:3,23 202:21 230:9, 12 236:20 238:19 241:1,2 244:13,14 245:9 252:5,11 253:5 283:16, 17,23,24	confused 29:2 52:23 54:6
clothing 56:10 105:2	collecting 200:24 201:2, 13,25 202:11	completed 234:6,9 264:18 266:23 270:14 272:25 273:24	conducted 58:4 101:22 104:19 147:9 189:21 191:3 206:10 218:8 224:10 227:16 236:20 241:19 251:6,17,25 252:22 267:9 284:7	conjunction 144:14
clue 270:2	color 59:6 65:12,17 66:23 67:1 198:11	completely 282:1	conducting 38:9 103:18 148:20 183:6 186:15 189:19 227:18 231:6	connect 89:24
coat 224:17,18	colors 105:14	complexion 170:13	confidence	conscious 213:11
Cobbs 82:14	combine 83:21	comply 240:19 248:14 249:8 250:4	confident	consideration 143:14 278:24
Cobra 60:10,13	combined 83:17	computer 73:9 92:14,15 93:3 95:7 223:19	confrontation	considered 48:18 162:16 171:25 191:20 220:2
Cobras 60:9	comfortable 150:10	computerized 73:21 77:6 89:9	consistent 219:19	consistently 213:12
code 138:22	commander 26:1 61:18 65:22 218:4,18, 20,22 220:25 226:11,21 233:16,17	computers 87:12,16 223:24	constitutes 212:20	consisting 161:20 163:9
codes 137:19	commanders 25:23	concern 39:6, 12 142:25 175:25 177:22 184:25 185:7 231:11	constitutional 250:21	console 87:17
coffee 221:20 222:2,25 223:1, 2,10,13,19 224:2,4,6,9,14, 24 225:8,9 226:3 260:2,13 261:8,15	committed 104:16 154:14		constraints 233:15	consultant 220:1
				consulting 271:13 272:6

contact 22:12 24:12 61:18 65:23 91:24 92:18,22 155:2 220:24 242:19 248:3 260:4 262:18 266:20	177:2 184:24 191:9,11,15 192:1,8,10 193:8,9 cooperative 27:17,18 112:5 154:1 COPA 253:8 copied 26:4 copies 22:23 23:1 66:25 67:1,2 70:4 77:9 197:7,8 copy 16:24 17:2 68:25 69:21 73:16,20 74:13 75:6 88:8 130:2,6,23 131:2 156:2 197:22 199:13 228:7 239:18 241:10,13 259:25 260:23 285:9 corn 177:13 corner 80:19 corp 218:17 219:9,17 221:2 232:22 233:25 234:1,3,6 corporation 246:2,3,14,15 correct 8:23 10:14 12:24 15:12 17:11,15 19:5,7 20:1,2,5, 19 23:10,14,18 38:1,2 43:5,6, 10,11,16,17 45:8,9 46:9,16 47:17 51:5 55:6 57:12,16,23,24 58:17 61:3,4 62:9,23 64:22 66:9,10 68:4,5, 6,9,10,14,18,19 69:9,21,22,25 70:1,13,14,17, 18 71:10,13,17 77:24 78:21,22	79:8,9 82:2,14 83:3,11 85:9 88:7 93:17 94:12,13,15,16 96:6,7,9,10,13, 14 97:16,17,21 98:13,23 101:2 103:7,22 104:19 106:10, 11,14 107:1,3,5 109:8 110:5 112:14,15,20 116:8,12,13,22, 23 117:4 118:22 119:6 120:5,8 122:23, 24 123:3,8,14 124:15,17 127:16,17,19, 20,22,23 128:1, 2,5,6,9,10,18, 19,22,24 129:2, 3,22 130:3,11, 20,21 131:1,14, 15 133:4,14 134:9,10,23,24 135:4,22,23,25 136:1,9,10,12, 13,16,17 137:19 139:3 140:25 141:1,9 142:5,6,13,14, 16 144:5 145:4 146:3,9,10,13, 14,17 147:2,3, 6,10,12,14,17, 21 148:18,19 150:19 151:5, 12,17,20,22 153:9 156:3,16, 19,25 157:5,10, 11,16,19,23,24 158:3,19,21 159:1,8,13,20 160:2,6 161:13, 16,21,22 162:1, 6 163:1,2,5,6, 11,12,14,16 164:1,2,5,10,22 165:25 166:2 167:8,9,18,19 168:5,6,10 169:5,6,8,9,12, 13,16 170:10, 11,15,16,22 171:15,16,19	172:16,18,25 173:8,12,22,23 174:2,3,8,10, 15,24 175:1,13, 14,18,19,22 178:15 183:9 188:13 189:12, 13 190:1,4,5,7, 8 191:13,21 192:3,13 193:21,22,25 194:13,14 195:2,3,6 196:16 198:24, 25 199:3,4,7,8, 18,19,25 200:1, 3,25 201:1 203:6,8,10 204:20 205:7,8, 14,20,21 207:7 208:16,17,22, 23 209:12,13, 17,23,24 210:1, 2,5,6,9,10,15, 16 212:24,25 213:24 214:3, 17,18,25 215:1, 6 216:15 217:4 222:5 223:17 224:25 226:6,8 230:21 231:21 236:21 240:13, 19 241:23 242:1,4,7 246:11 248:10 254:2 258:21, 23,25 260:13 261:9 266:12 270:18 271:6,7, 15 272:14 275:11,12 277:22 278:9 284:8,9,12,13 corrections 167:1 179:11, 22 195:6,7 correctly 27:4 43:8 51:17 54:24 116:8 121:17 122:21 231:13 266:13, 15 corroborated 31:5	counsel 7:18 8:22 9:12 13:17 14:18 15:10 16:7,8,14,23 18:22 189:6 218:17 219:10, 17 221:2 233:25 234:1,3, 6 242:8 246:2, 3,14,15 250:8, 18 272:4 280:15,18 281:11 282:9 284:23,24 counsel's 18:17 232:22 Counselor 169:15,24 179:17 193:17 246:21 259:9, 17 279:8 283:20 counted 243:15 counting 81:14,20 county 59:23 142:20 144:22 147:1 246:5,16 couple 10:4,21 17:14 76:17,18 133:12 court 7:4,5,14 9:20 10:19 11:13 41:16 69:15 102:11 105:10 145:17 206:13,14,22 207:13,14 215:12 243:10, 17,18 246:4,16 248:5,13 249:6, 10,11,13 250:4 272:4 279:14 court's 250:19 courtesy 279:12 cover 182:6 235:5,11 238:8 240:6
--	---	--	--	---

covered 182:5, 10 226:2	177:24 181:11 187:18,20	263:23 265:6,8, 9	211:13,16,22	defendants 7:24
covering 56:21	crime's 144:12	damaged 221:18 223:19	day 7:7 16:8	defense 39:8 201:15,19
coverup 242:25	crimes 21:8,21 98:15,17 196:8, 9 258:16	225:3 227:5 260:2,13 261:17	32:17 33:5,6,7 41:9 72:6 74:8, 9,19 75:1 86:20 105:11 112:18, 21 117:3	282:10 284:24
CPD 148:5 251:4,6,18 254:16 256:25 257:23 258:4 259:24 271:11 273:4,5,7 274:11,12,18 276:8 278:19, 22 279:1 282:19 284:12	criminal 13:11 37:2 68:3 70:16 84:14 142:16, 18 143:2 144:10 145:3 156:14,24 157:21 159:25 179:25 214:16, 19 234:1	damages 201:21	119:24 157:14 177:11,14 200:10,16 209:14 210:13, 17 216:5 221:4 223:4 226:3,14 262:13 265:10, 11	delay 72:6 delineated 95:1
CR 205:15,23 207:21 208:7	CRIS 59:9 85:4 86:14,20,23 87:3 123:16 138:5	dangerous 142:20 144:23	days 10:5 52:13 62:2 72:11 133:12 154:16 207:6,9 211:14 213:20, 24 220:17 230:3,23 243:9, 10,12,15,16 248:4,5	demand 219:11,12,18 234:3
CR211634 207:22	cross- referencing 139:6	dark 41:7 170:13	denied 209:21, 25 210:3	demanding 234:2
cracks 262:21	crucial 40:9	Darnell 173:24	denying 257:8	department 19:1,4,15 35:17,22 37:21, 22 38:8 64:21 93:16,20 167:1 168:1 179:11, 21 195:5 196:7 199:24 201:3 202:12,15,19 206:3 215:15 218:7,9 219:5, 17 220:4 235:16 237:5 244:24 252:10, 18 253:2,4,10 274:8 279:7 280:5 283:16, 22,23
create 108:11 153:1,3	CT 285:13	date 19:21,22, 24 20:2 70:21, 24 71:4 90:1 112:22 118:1,4, 9 120:6,7 134:22 149:16 152:23 154:24 156:14 157:3 162:21 168:9, 11 169:5,8 172:13 173:7, 20,25 174:5 175:11,16 178:22 181:19 182:3,9 183:18 184:16,19,23 200:5,8 217:15 218:21 232:21 243:11 247:21 248:1,7,19 264:23 265:3	deal 198:19 239:20	departments 79:4
created 118:19 147:9,14,20 163:8 169:21 176:1 237:25 256:4	cup 223:13 224:3,6,14	dated 208:20 213:3 215:4 234:24	dealt 238:24 254:24	depend 137:4 139:21 153:5
creating 147:19,25 152:25	curls 170:14 171:15 176:16	dates 134:19 168:3,20,23 184:14 186:3, 13	Debra 132:19	depending 26:9 46:9 53:18,19 74:1,8 138:1 154:11 277:4
credentials 252:16,17,21	Curran 270:13 271:5 272:18	daughter	deceased 28:9	depends 34:9 72:8 74:22
credible 212:23 215:6	current 26:7 84:4		December 132:21 133:8 159:20 160:2 169:21 170:3 213:3 234:24 246:2,13 248:2, 9	
crime 28:22 32:1,10,12 49:13 52:13 99:17 102:4 104:16 124:25 137:17 144:11, 14 148:17,23 150:19 152:12 153:2 154:10, 14 162:5 169:13 170:3 172:16 173:12, 22 174:1,15 175:13,18,22	custody 92:9, 13,19 93:2,13 94:3 95:13 101:7 113:25 115:7 142:22 143:15 145:19		decided 37:22	
	cut 51:11 75:6 80:20		decision 32:23 266:1	
	cutting 11:8 58:2 242:8		deemed 205:10	
	<hr/> D <hr/>		default 121:15	
	damage 209:16 211:4 212:12 261:5		defendant 8:25 41:17	

149:12 154:17	destroy 108:13	16,17,24 139:3	diligent 213:11	275:2,4,12
deponent	destroyed	142:4,24	dim 78:25	277:18
280:22	221:22 222:1	145:22 189:15	direct 9:13	disputing
deposition	223:1 260:4	190:2 191:23	29:14 258:1	251:21 263:15
7:9,25 10:8,10,	272:15	198:6 222:16	direction 45:5	271:3 274:1
25 12:19 13:1,	details 14:11,	225:22 227:10,	105:1 273:22	disrespect
6,18 14:8,19	15 57:19 97:6	22,23,24 228:2,	directly 87:4	209:5
15:11 16:6,10,	208:11	14 231:7	disagree 34:8	dissect 161:7
15 17:21,23	detective	232:16 233:7	251:8,10	distinct 51:13
57:20 135:22	20:18 21:12	254:16 255:10	discharged	56:16,17
139:25 140:9	22:5 24:7 25:6,	256:1 258:24	214:17,20	distinctly 50:1
189:12 198:22	25 27:16 28:3	263:22 271:6	Disciple	district 7:13,14
241:22,25	33:17,18 35:12	detectives'	105:13	69:14 73:13
242:2 281:18,	38:8 40:11,18	221:11,15	disciplinary	92:19 145:6
19 282:3	59:18 65:7	determination	213:9,17,19	203:13,14
285:13	70:25 71:5,9	105:23 144:12	217:2 253:9	204:17
depositions	72:15 75:8,13	207:3 244:5	284:6	division 21:12
10:16 281:8	91:24 93:24	278:23 279:1	discipline	71:9 75:8,13
deputy 214:5	96:9 115:3	determine	207:6 237:10	156:19,23,24
219:22 233:18	116:7 121:3,11	41:18 84:8	discovery	157:9,22
234:12	122:7 128:5,13	92:24 101:13	201:21,23	197:10,14
describe 55:23	129:8 136:15	144:9 166:9	discretion	213:2,4 214:1
242:10	138:18 156:19,	178:1	144:8	253:3 283:15
describing	24 157:8	determined	discussed	divisions
134:5 254:20	160:16 169:22	46:3 101:6	191:3	59:18
description	170:2 189:16,	104:2 105:5	discussion	divorced
102:5 105:2,12	17,24 197:10,	185:21 214:22	30:19	27:22
141:19	14 203:15	determining	dispatch 115:2	Dixon 146:21
descriptions	205:17 212:21	50:17	disposal	147:12,17
171:23	213:2,4,9,10,	develop	270:10	163:11,13,16
descriptive	12,19 214:1	198:12,15	dispose	164:4,8,12,14,
168:3 169:4	242:25 257:23	developed	221:14 270:24	19 165:2,11,19,
deserved 23:4	258:5,10,18,19	190:18	disposed	23 166:4,6,7
designate	259:6 260:24	developing	226:1 253:19	167:17 172:13,
196:11 226:18	262:10,14,18	198:10	254:3 258:23	21,24 173:11,
designated	266:8,11	Devon 174:4	270:16	22,25 174:4,12,
241:14	268:21 272:24	Dhaviella 8:16	disposing	13,17,25
designed	273:8	dictate 188:3	221:20	175:10,16
100:19	detectives	difference	dispute 246:5,	Dixon's
designees	20:25 21:4,6	40:12 161:9	17,18 247:7	180:19,20
238:7	24:12,18 25:4,	179:12 181:9	248:15,17,18,	Dixons 163:23
desk 90:12,14,	14 26:22 30:4	183:13,17	19 251:19	164:18 165:6
15,16,21,24	33:19 35:12	differences	259:6,10 260:9,	166:2
99:3,5 100:5	40:11,18 42:7,8	29:19 40:12,19	16 267:1,10	DNA 22:17,21
114:9 221:23	43:8 44:2,5,15,	differently	268:1,11,12,13,	23:20,23 24:2,
223:6,13,15,17,	24 59:2 65:25	28:20,24 29:3	14 274:21	24 27:10 28:15
20,22	69:18,24 72:20	33:13 41:11		DNA-BASED
	79:11,12 92:11,			23:17
	12 98:10			
	108:11 115:11			
	128:25 130:17			
	134:6,21 135:1			
	136:3,5,9			
	137:5,9 138:2,			

DOC 148:14 179:25 183:3	documentatio n 41:13 106:16 107:21 137:11 206:15 214:22 215:11 219:1 220:6 262:5,15, 21,23 269:3 273:17	dot 87:25 88:1, 2 dots 88:9,15 double 116:15 double-check 192:5 doubt 47:23 104:6 downstairs 210:25 downtown 218:22 234:13 dozen 147:23 draft 225:20 draw 172:9 drawn 244:11 drew 237:12 drive- 38:17 driver 161:12 driver's 59:12 85:21 87:21 90:2,3 115:8 driving 35:5 115:18 drop 221:23 dropping 115:7 drove 233:3 drug 101:7 110:14 112:10 drugs 142:20 144:23 dry 225:6 due 29:15 duplicate 226:15 227:7,8 229:5,11,14,24 233:6 261:19 272:8 duplicated 226:19 228:23 230:11 233:14 263:24 265:3	277:14 duplicates 226:17 272:10, 11 277:10 duplication 263:25 duration 102:7 109:23 264:22 duty 138:7 209:6 <hr/> E <hr/>	effects 12:11 EHXIBIT 169:23 elected 250:22 electronically 138:8 eliminate 182:25 183:13 184:15,18 185:4 eliminated 186:3 emergency 59:6 61:11 65:14,20 66:2,5 74:3 198:14 199:11 Emmett 127:22 128:4,9,14 129:1 188:25 emphases 24:1 27:5 emphasis 27:7 employee 244:19 employer 279:25 employment 202:2 end 189:22 195:12 206:9 207:4,16 213:14 ended 23:11 237:11 enforce 243:3, 22 244:18 245:15 246:5, 17 247:25 248:9 enforceable 248:15 249:8,9, 11 enforcement 59:22 220:2 241:17
doctor 12:13 40:3 doctored 281:14 document 46:2,20 47:10, 25 48:7 63:17 64:18,23 67:4 70:12 73:23 75:16 76:12 77:5 78:5 80:19 84:13,20 91:10 95:22 96:4 97:22 98:8 100:7 107:2,12, 15,17 109:25 110:22 113:6 127:5 128:23 131:6,11 135:15 137:2 139:18 140:3, 21 142:10,14 143:23,24 146:7,24 155:25 156:1, 11 166:23 169:19 188:22 189:1 190:20 191:5 193:14 195:18 207:19, 20 208:15 214:9 219:2 234:25 235:5,7, 12,18,19,22 236:6,15,17 237:23,24,25 238:2,9 239:13 240:1,4,7 246:22 247:1,2, 19 248:21,23 249:3,5 251:14 256:23 257:16 263:5,11,15 270:8 272:9 273:13 274:15 276:9 277:8,14, 15 279:13,24 280:6 281:1,3, 10,12,14,15,24 282:9	documented 45:8 46:15,22, 23 47:17 48:12 57:22 106:10, 13 107:1 108:23 111:4, 10 143:9 144:5 190:24,25 193:2,6 226:14, 16 232:10 273:23 276:7, 14,25 277:9 documenting 46:7 documents 12:25 16:21,22 17:10,14 18:3, 7,12,21 19:20 67:21,25 68:17 76:18 82:22 98:5 124:15 130:10,18,19 135:21 136:19 137:1 139:7 155:7 188:11 189:11 205:12 206:25 216:1 223:14,16,18 227:24 229:5 230:7 241:11 242:14 243:5,6 244:7,14 264:4 dollars 200:14 don 56:10 door 31:21 206:19,23 210:22 211:1,3, 5,8,9,10,21 212:12 219:10 224:18 door's 223:22 doors 210:18			

enjoy 211:19	eventually 75:18 76:9	execution 254:16,20	expire 119:11, 24 120:15	177:5,25
enter 119:11 210:17 211:8	109:9 122:4,25 205:5 212:5	255:1,5 267:17	121:4,7,10,24	facing 142:15 145:4 200:21
entered 116:21 117:2 118:20, 23 127:25 129:5 210:21 248:13 249:7	242:21 everybody's 32:23 41:3 57:6 82:23	exercise 245:1	expired 119:9 120:2,5,13,16 121:2,8,24 122:9,11 123:1, 2,6,8	202:16 fact 9:3 31:8 32:21 57:2 58:19 124:9 134:20 140:13
entering 211:1	evidence 13:13 22:22	85:8 86:12	explain 32:24 33:11 47:7 58:24 91:13	146:8 157:4 158:13 164:7 213:8 220:8
entire 17:12, 22,25 18:3 138:14 233:5, 15 243:16 275:23	24:25 26:4 27:8 28:2,15 29:14, 15 103:23 109:5 125:2 190:4 206:18 207:18 212:19 216:1,21,23 270:10,16 279:15	95:23,24 96:5 100:7 112:16, 17 113:7,8 116:11 127:6,7, 15 131:8,11 135:16,18 156:2,4 159:8, 13 166:13,20, 23 167:11,14 168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	explained 38:15 39:25 96:18 137:8 164:17 230:10 245:2	230:8 232:19 241:1 259:11 260:16 263:17, 21 269:17 272:9 274:1 277:24
entrance 210:21	evolved 63:6 76:3,10 107:18 109:13,14,22, 24 113:21 114:4	13 166:13,20, 23 167:11,14 168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	explains 57:18	factor 185:6
entries 81:11, 13 83:13	ex-girlfriend 206:20	23 167:11,14 168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	extend 232:21	factors 137:6 244:18,24 245:2
entry 81:10,12, 14 209:8,25	ex-girlfriend's 206:7	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	extension 233:1	facts 213:15
envelope 197:20	EXAMINATIO N 9:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	extent 183:9 198:6 201:24 237:9 239:11	factual 32:7
Eric 253:17,20	examples 54:23	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	extra 48:11	fade 33:21 34:11
ERPS 26:6	exception 158:22 271:2	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	extreme 31:12, 14 34:18 48:24 49:9,11 61:10	fade 33:21 34:11
err 134:11	exceptions 33:20 34:7	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	eye 56:24 57:2, 3,4,6	fade 33:21 34:11
error 124:8	excuse 60:11 64:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	eyes 25:21 50:6 55:16,17 156:12 168:10 231:9	fade 33:21 34:11
errors 138:21, 22	excessive 244:4	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	eyewitness 38:6,11 232:9	fade 33:21 34:11
essentially 44:15 70:24 78:19 141:7 154:6 200:11 204:10 216:10 217:2 241:18 270:24	exclusively 15:11	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	eyewitnesses 52:7 150:13	fade 33:21 34:11
essentials 218:18	excuse 60:11 64:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	eyewitnesses' 36:2	fade 33:21 34:11
established 86:24	experience 157:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	face 32:3 42:2 46:1 56:16,17, 21 151:18 209:10	fade 33:21 34:11
Eugene 146:20	experiences 157:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19	faces 176:11	fade 33:21 34:11
evade 282:12	experiences 157:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19		fade 33:21 34:11
event 278:25	experiences 157:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19		fade 33:21 34:11
events 34:5 215:6	experiences 157:13	168:16,23 169:19 171:13 172:10 173:7 188:8 189:4,5 193:11,12,14 195:18,21 207:21 208:1,7 234:14,15,17 238:9 245:19		fade 33:21 34:11

faithfully 10:20	fearful 27:24	24	274:4,6 279:12	fled 154:14
fake 280:19	feature 56:17	filed 219:12	finding 154:20	flee 61:15
281:1,3,14	features 41:10	246:3,15 274:9	203:5 205:5,23	Fleming
282:13	54:14	files 18:21	206:12 207:5,	169:22 170:2
fall 120:8	February 69:7	22:23,25 25:8	13,18 208:18,	Fletcher 7:10,
falls 44:11 48:4	70:12,19 142:1,	130:14	21 209:4,11,12,	20 13:11,15
false 33:10	3,4,9 155:10	filing 73:18	19 212:24	66:8 67:2 78:1,
204:7,24 205:6,	156:14,19,25	fill 47:20 61:10	214:25 215:2,3	8,11,12 79:22
13 272:1 277:9	157:2,9,16	65:7 70:7 71:20	216:14 217:3	82:13,14,15,16,
280:16,19	federal 29:17,	72:9 74:23	283:4	17,18,20,21,24
281:3,14	18	91:19 135:2,7,9	findings	83:5,7,16 84:1,
familiar 40:13,	feel 33:8 264:7	filled 68:22	202:24 237:2	5,6,11 85:2
20 43:23 64:24	feels 151:18	121:7 130:16	238:17,23	88:2,3,16,17,20
67:21 161:25	felony 44:21	133:13 137:18	239:14 244:3	89:5,10,16 90:7
213:5		138:23 170:2	278:23 279:2,7,	98:11 100:25
familiarity	felt 39:15,17	filler 56:8 110:2	11 282:19	101:4,5,16
103:20 150:24	72:13 150:9	fillers 45:11	283:1,18	103:5 108:7
family 27:15	female 45:15	49:6 52:2,9	fine 8:12 64:12	110:1,2,4,11,17
28:3 112:9	50:1 150:25	53:2,3,15,17	89:14 187:25	111:4 141:4
fashion 60:4	females 50:4	54:18,25 55:10,	241:20 247:18	146:16,19,20,
227:20 244:21	Ferguson's	11 56:1,19	fingerprint	24 147:6,10,11
fast 74:23	243:2	105:18 107:23,	68:15 69:16	148:5 149:8
faster 72:14	fess 224:8	24 110:21	79:25 91:22	150:2,15,24
fastest 61:6	fewer 208:5	111:14,18,21	92:2,7 94:9	151:12 153:3,8,
father 22:10	field 50:8 52:4	163:4 181:22	fingerprinted	17 155:9
42:1,2	Fields 88:18	184:5	69:14 93:7	156:24 158:2
favor 212:20	file 16:25 17:3,	fills 74:22	114:2	159:6,12,19,25
233:10 244:25	6,9,12,18,23,25	film 61:21	fingerprints	160:8,18 162:5,
248:13 249:7	18:3,20 26:2,3	190:17 198:12,	94:6	13 163:9,12
fax 75:12,22,25	73:14 76:18	15	finish 11:1,4,9	164:1,8,25
76:7,10 157:5	96:24 97:19,23	filtering 186:12	179:17,18	165:4,7,12,16,
faxed 75:6,7,19	103:8 108:14	filters 22:22	248:4 279:21,	19,22 166:11
157:17	130:7,10,18,19	62:22 63:4,5	23	167:17 170:19
FBI 99:18	131:1 133:18,	final 216:19	finished 11:8	171:3,8,18
227:16,22	23 134:3,14	find 17:10	fire 34:25 38:21	172:14,25
228:1,11,13,16	135:11 137:13	23:25 24:8,25	firearm 204:1	174:14,23
229:9 230:6,8,	138:13 139:14,	26:5 28:7,8,10,	firearms 72:21	175:20 176:3
12,20 231:1,2,	15 165:15	17 31:6 39:3	fired 104:23	178:11 179:6,
5,14 259:23,24	207:24 208:21	45:11 50:12	245:6 255:11	14,15 180:15
260:1,5,11	210:19 216:21	52:19 61:12,22,	256:1,2	188:17 191:12,
262:4,6,9,17,24	217:6 223:4	23,24 62:2	fist 209:23	15 192:2,7,9
263:22 264:1,5	225:10 226:4,	63:22 67:17	fit 184:17	193:24 194:19,
267:9 268:18	25 227:4	95:14 97:1	five- 195:11	23 195:1
269:8 271:9	232:19 233:3,5,	105:11 117:18	five-page	207:24
273:22	15,22,23 234:6,	133:22 154:17	112:11	Fletcher's
fear 33:1	10 264:21	155:23 159:4	flag 116:6	98:21 100:3
	269:4,7,19	187:11 239:18,	166:15 211:6	156:3 169:8
	274:3,9 278:7,	25 240:1,2		Fletchers
		269:3 273:4,8		79:23 88:19,20,
				21 110:16
				111:5,6
				floor 44:11
				229:23 258:16

Florida 93:7,13	179:1 181:14	frame 158:14	137:15	96:6 104:4
flows 137:20	182:12 185:12,	232:22,23	functions	131:13 139:19
flying 212:2,22	19 186:19	266:2 271:22	123:21 141:13	153:22 162:15,
focus 18:7	187:22 201:4	272:20	funny 35:9	17 196:10
24:3 180:5	202:25 203:1	Frankie 35:2		221:10 234:23
208:6 236:5,12	215:7 221:17	frantic 28:13	<u>G</u>	236:20 237:2,
focused 17:13	222:3 225:1	Fred 68:10		21 238:7,17,24
18:3	230:15 254:21	Frederick	gaining 200:13	239:15 240:12
focusing 18:12	255:14 263:3	175:15	Gallagher	244:1 247:7,15,
fold 182:6	264:15 267:4	fresh 25:21	217:22	18 256:25
follow 18:17	276:16	26:12	gang 33:5,7	262:8,14 283:1
29:11 115:13	formal 37:7	fricking 246:22	38:16 59:18,21,	General's
241:4,20 244:8	130:10 134:8	Friday 158:12	24 60:8 61:23	238:11 239:25
250:23	278:23 279:1	friend 48:6	204:2,18	240:24 277:11
follow-up 25:7	formalized	132:19 150:25	garbage	generally 34:6
284:21,23	96:22	151:2,3,7	221:23 223:9	36:9 191:20
fond 211:17	formed 24:15	152:16,25	Garcia 253:16,	generate
foot 49:7	25:13 243:2	155:12 161:15	22 254:1,4,12,	199:5
footnote	formulate	188:21 192:1,7	15,19,24 255:7,	generated
251:2,3	29:11	193:7	13,25 256:2,19	199:2 271:10
force 244:2,4,	forward 26:1,2	friends 34:22	257:1,5 259:5,	generating
20	33:15 71:5,6	112:9 150:15	8,22 270:15,20	199:6
forced 206:19,	233:24	151:11	271:3 273:1	generation
23 209:8,25	forwarded	front 38:22	274:20,22	203:25
234:5	214:7	64:15 77:2	275:10 276:8	George 82:19
forensic 27:10	fought 244:18	127:12 153:25	277:20,21	give 9:9 28:19
forever 32:4	found 28:6	167:5 193:18	278:14	50:24 67:10
forgot 84:24	62:3 138:21	195:24 216:17	Garcia's	83:13 113:12
85:11 219:21	204:5 211:3	235:18 257:14	255:18	140:23 241:12
form 14:21	215:5 223:12	268:8 283:8	garden 210:25	242:16 243:6
15:14 19:17	237:25 249:3	frontals 176:12	211:1	265:17
21:15 29:1,25	265:17 269:7,	frowned 66:4	Gatewood	giving 27:21
30:17 36:4,13	11 274:9	fulfilled 70:22,	82:18	50:7 120:13
64:23 65:6,12	foundation	24	gathering 59:3	183:24
66:1 69:12 70:7	19:17 20:23	full 31:14 34:17	gave 84:5,6	glaring 177:7
72:1 76:9 79:16	21:15 79:16	62:6 126:13	114:8,15	glass 44:10
91:19 92:15	101:18 102:1	200:5,7,9,10,24	115:22 164:25	48:11
93:23 101:18	107:6 108:15	201:21 208:7,8	212:6 259:25	glasses 50:18,
102:1 107:6	110:6 125:1	241:12 242:16	274:18	19
108:15 110:6	143:3,6 158:4	243:7	gender 49:21	goal 162:25
121:6 125:1,20	159:21 160:11	full-on 126:14	187:1	God 23:2,5
143:3,5 148:25	164:23 171:7,	fully 242:15	gender's 50:2	Goldston
150:20 152:2	20 173:13	Fulton 146:25	Gene 233:19,	214:13,20
158:4 159:21	174:9 182:12	function 21:6	20 234:13	Gonzalez
160:11 164:23	203:1 230:15	100:19 121:13	general 15:20	253:17,20
171:6,20	252:13 254:21	130:15 134:10	30:14 33:19,23	257:1,5 270:15,
173:13 174:9	255:14 263:3		34:14 35:23,25	20 271:2 273:1
	264:15 267:4			
	268:3 279:3			
	foyer 210:24			

274:20,23 275:11 276:8 277:20,21 278:14 good 7:19 10:3 25:9 56:8 73:17 90:18 99:12 137:12 138:16 165:14 169:17 177:18 184:4, 11,17,19 188:5, 6 261:13 GP 226:17 261:20 GPR 96:20 97:6 98:9 112:13 124:22 134:18 226:19 227:3,4,8 228:3,19,22,24 229:14,18,24 230:1,11 255:1, 3,8,12,23 256:4,12,21,22 257:4 259:2,7, 19,21,23,25 260:2,12,22,23, 24,25 261:2,4, 5,7,8,9,13,16, 19,21,24,25 263:1,18 264:10,13 265:7,8,18,20 266:23 267:25 277:13,15 GPRS 13:3 96:11 131:13, 22 132:5 135:1 221:10,15 222:19,23 223:1 224:24 225:7,12,17,18, 19,22 226:12, 14,15,22,25 227:9,10 228:1, 9,15 229:6 230:4,14 231:7, 10,19,20 232:2, 11 233:6,11 253:19 254:3, 18,24 255:17, 21 256:18,24 257:2 258:22 263:24,25	265:2 266:23 267:3 268:2,9, 20,22,25 269:3, 9,13,18,25 270:13,17,22, 24 271:10,13, 22 272:8,24 273:2,6,8,13, 19,25 274:25 275:1 276:7,12, 15,19,22 277:6, 10,19,21,23,25 278:5 grab 127:1 grabbing 113:13 grammar 138:22 grand 218:12 250:19 grant 22:17 23:18,20,24 29:15,17,18 graphic 196:3 197:11,12,14, 17,18 198:3,5, 6,23 199:15,17 great 138:18 greater 23:22 34:10 115:23 greatest 158:20 green-screen 87:13 green-type 100:15 grew 154:13 grieved 207:12 216:17 Grossman 7:3 ground 10:7 grounds 36:19 group 23:7 198:23 199:1 grown 211:16	guayabera 49:14,16 guess 34:9 52:23 55:20 71:7 72:19 104:14 218:4 guessing 40:2 gun 110:12,13 guy 31:20 40:1 42:1,21,23 44:10,11 45:10 46:17,18,20 47:11 48:5,10, 16 49:17 50:18, 20 51:9 53:8,22 56:25 57:3,11 61:14 66:21 72:5 87:20,22 92:18 93:10,21, 22 95:4,13 102:10 103:12 104:24 105:1,2, 7,11,13,17 106:2 114:18 115:16 121:19 125:8 147:24 150:3,17 151:18 152:1 153:12 154:12, 14 176:14 178:6,13,19 179:16 185:23, 24,25 186:1 194:20 198:14 212:2 248:6 guy's 42:17,18 45:23 179:24, 25 guys 25:16 47:5,24 49:19, 22 50:2 51:19 55:12 57:5 95:17 124:9 138:23 177:16 184:3,15 185:4 187:10 233:11 262:11,12 282:10,13 gym 104:24	H Haas 130:2,6,9, 23,24 131:3 134:1,8 204:16 habit 112:10 Hail 111:7 hair 52:18,19 53:8,22,23,24 54:4,7,8,13 168:9 170:15 171:9,10,23,24, 25 172:3,5 175:2,6,8 176:12,15,16 177:14 194:19, 21,23,24 hairs 176:21 hairstyle 53:14 hairstyles 52:6 half 147:23 197:6 halfway 254:11 hall 198:17 hallway 196:24 hand 9:7 65:21 66:2 71:5 74:12 76:4 134:1 138:6 192:15 231:9 handcuffed 57:13,14,15 193:24 194:12, 16 handcuffs 194:2,4 handed 267:25 268:2,9 hanging 179:23 handle 56:22 138:14 handouts 21:8	hands 61:16 193:24 194:4,6, 11 209:10 handwriting 130:1 131:16 132:5,9,10 133:3 handwritten 88:5 96:12 99:4 188:13 happen 20:13 31:16 35:4,10 49:11 93:20 120:8 122:4 200:15 happened 20:14 31:4 34:23 38:1 106:12 140:23 179:2 233:9 269:20,25 272:19 280:9 happening 37:24 happy 126:12 hard 38:13 42:18 50:12 133:10 153:21 194:21 197:21 212:15 hardworking 213:11 Harris 8:16 281:2,11,20,22 harsh 213:18 HD00 85:13 HD80 99:10 he'll 48:15 243:13 head 38:17,21 52:17 53:10,12 131:24 143:18, 20,21,22 197:6 209:10 header 133:3,6 headers 132:7 133:13
---	---	--	--	---

headings 133:19,20 134:12	history 12:3 18:25 68:3 70:16 78:19 101:2,11 110:12 156:14, 24 157:21 159:25	hours 70:6 71:22,24 74:4, 17 117:20 132:18 209:7 230:2 241:9 249:20	ideally 154:8 162:3 186:15	46:1,6
headquarters 213:3	hit 58:6 69:16 92:10 93:8 113:24 121:16 212:3	house 224:1	Ident 59:5 61:1, 2,7,13,18 65:4, 16,23 66:2 70:3 75:10 89:20 91:20 92:18 93:24 95:4 161:6 198:8,18, 19	identified 38:24 45:19,20, 21 47:12 54:14 88:23 91:18 95:5,8 108:4,9 110:20 141:10, 22 170:20,21 171:18 174:13 191:11 192:2,9, 18 204:17
hear 35:6 40:4 203:7 217:4 229:8	hold 95:9 102:11 105:9, 10 115:14 145:15 174:16 179:17 239:5 242:8 243:20 276:25 278:5 279:21	human 34:21 35:9 66:16 72:4 121:13 133:21	identification 32:15,19,20 33:12 34:19 35:18,23 36:18 39:6,10,21,25 41:1,4,12,14, 19,21 42:13 44:1 45:2,7 46:3,14,23 47:1,2,16,20 54:12 61:3 63:19 64:20 65:2,8 67:6 68:18,22,24 69:19,20,24 70:23 71:16,18, 19 72:25 73:5, 23 75:12 76:20 84:16 91:6 95:24 101:12 103:19 104:3 105:7 106:23, 24,25 108:12 109:5,7 111:19, 22 113:8 127:7 131:8 135:18 148:21 156:4, 17,23 157:20, 23 165:9 166:20 167:14 168:2 169:23 189:5 191:13, 18,21 192:13, 21,22,23,24 193:1,7,12 195:21 198:22, 24 199:1 208:1 234:17 282:20, 22 283:3,10	identifiers 108:3 183:10, 11
heard 104:13, 17,18 112:9 217:24 226:21 232:3,4	holding 143:13	hundreds 62:11 138:11		identify 32:11 34:3 40:23 79:19 80:15 88:23 89:21 102:20 110:3 112:6 137:25 146:5,6
hearing 37:5,8 38:20 207:2,15, 16 216:17 235:8,23 236:3 238:21 239:23 240:10	home 28:12 101:22 200:15 206:8 210:1,17 216:11	hurry 234:5	I	identifying 31:25 39:4 158:22 183:8
Hector 205:18	homicide 19:9, 16 22:1 26:12 59:2 94:19 110:13 114:20 124:2 128:15 130:14 133:5 135:25 136:25 138:10 140:10 198:7	hypothetical 110:7 187:23	I-L-E-S 209:9	IDOC 59:23 101:8 147:12, 14,16,20 148:6 153:18 155:18 161:1,5,13,21 162:23 163:3,9, 10 164:9 166:14 167:18 169:1 186:7,11
height 51:25 57:1 168:3,9 183:15	homicides 21:7,17,19,24 24:6 26:21	hypothetically 56:3	IAD 218:10 252:19	IDS 47:14
held 93:12 207:1	honest 132:16	ICAM 58:17,22 59:8 61:12 62:5,8,12,19 63:12 77:19,23 78:17 79:11,13 84:1 85:4 86:2, 12,14,23 89:13 145:23,25 146:1,9,11,12 147:21 148:6 162:24 168:1		Illinois 7:14 167:1 179:10, 21 195:5
hell 227:3	hooked 87:16	ID 8:20 47:6,10 54:10 57:22 191:24		imagine 62:15
hey 25:7,15,25 36:10 42:16 65:23 91:25 93:12,20,25 95:4 99:19,22 102:10 105:16 115:10,15,16 122:8,12 123:19 124:9 144:9 228:17, 20 229:7 233:10 242:19 244:16 272:7 274:5	hop 64:2	idea 24:20 34:6 48:19 51:2 53:14 131:4 135:5 197:2 223:11 224:2 238:12,14 246:20 249:10 251:16,20 263:9 267:6 274:10,24		immediacy 161:2
hidden 182:10	hope 162:21			immediately 66:3 86:8 104:15 132:2 153:23 173:11 174:6 222:9 224:22
high 34:23	hopes 143:1			important 110:4 133:19 134:13
highlight 69:5 89:16	hospital 220:19			
highlighted 88:12 119:18	hot 90:12,14, 15,16,21,24 99:3,5 100:5 114:9			
Hispanic 49:15 57:1 104:24 187:4,7	hour 13:20			

impossible 25:18	incorrect 124:17,19 231:22 240:20	62:6,21,22 78:8 82:20 88:24,25 109:19,21 153:2,11 169:4 170:9 180:16 184:12 186:8 187:2,4,6 195:4 218:14 231:25 257:11 266:21 267:2 270:19	informing 279:11	41:8
improper 234:2,8	incriminate 250:15	individuals' 167:18	ingrained 32:3	instigated 210:3
in-person 14:12 16:6 273:3	independent 284:7	inept 277:12	initial 242:24	instruct 15:4 18:14 201:5 239:1
inability-to- pay 201:15	indicating 38:22 82:1 151:16,23 205:25	inferred 235:9, 12,23 239:24	initially 62:25 76:7 113:23 129:10	instructing 239:7
inappropriate 184:7 282:2	indication 44:16 75:5 83:14 93:19 124:23 125:10 130:22,23 141:7 143:23, 25 144:25 163:14,24 165:15,18 181:20 182:4 192:12,15,16, 19	inform 220:25 250:7 265:6,7 268:21 269:8	initiate 22:14 23:1 25:2 210:14 251:15	integrity 60:21
inauthentic 280:16,25 281:15	indications 38:5	information 13:10 24:23 26:2 72:14 73:12 79:13 86:25 87:4,6 89:1,10,17,22 90:10,12 97:1 99:3,19,24 101:2 110:4,10, 19 119:15 122:13 123:23 125:6 133:12 134:22 143:1, 13 149:5 157:1 168:4 169:4 182:8,9 183:8 184:23 214:15 222:22 225:17 228:23 229:1 230:19 248:24 254:19 256:4 266:20	initiated 210:4 251:4,23 252:2	intend 208:6
incarcerated 163:12	indictments 242:24	informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	initiating 25:5	intended 98:12
incarceration 153:21	individual 7:23 31:7 33:24 38:19 39:11 42:4,13 43:25 49:5,13,25 52:14 66:7 68:8,13 80:9 91:20 101:14 102:8 110:23 111:16 116:11, 19 142:23 146:3 149:15, 22 158:11 170:21 171:4 173:24 174:4 175:21 176:2, 22 188:4 197:1	informant 204:12	initiation 22:8	intending 201:20
incident 27:18, 20 31:10,13 34:23 105:21, 22 154:3,20,25 162:21 177:15 203:14 206:7 217:15 219:1,2 220:10 227:15 232:3,6 233:17 244:12 252:25 271:12	individual's 69:12 168:2,8	informing 279:11	ink 223:5 225:4,13 261:17	intent 171:22
incidentally 224:16	individually 41:11 177:20	inmates 148:9	input 62:7 118:4,9 120:14, 25 122:22 138:5	intentionally 204:25
incidents 26:18	individuals 40:20 45:4 49:4	input 62:7 118:4,9 120:14, 25 122:22 138:5	inmates 148:9	inter- department 284:1
include 130:7 164:9 165:24 168:8 254:19 256:3		information 13:10 24:23 26:2 72:14 73:12 79:13 86:25 87:4,6 89:1,10,17,22 90:10,12 97:1 99:3,19,24 101:2 110:4,10, 19 119:15 122:13 123:23 125:6 133:12 134:22 143:1, 13 149:5 157:1 168:4 169:4 182:8,9 183:8 184:23 214:15 222:22 225:17 228:23 229:1 230:19 248:24 254:19 256:4 266:20	input 62:7 118:4,9 120:14, 25 122:22 138:5	interact 198:6
included 82:13 110:2 130:25 168:4 169:3 233:5 255:2 273:6 274:12		information 13:10 24:23 26:2 72:14 73:12 79:13 86:25 87:4,6 89:1,10,17,22 90:10,12 97:1 99:3,19,24 101:2 110:4,10, 19 119:15 122:13 123:23 125:6 133:12 134:22 143:1, 13 149:5 157:1 168:4 169:4 182:8,9 183:8 184:23 214:15 222:22 225:17 228:23 229:1 230:19 248:24 254:19 256:4 266:20	input 62:7 118:4,9 120:14, 25 122:22 138:5	interdepartme ntal 72:7 75:18
including 106:18,22 146:22 169:5 187:17 218:9		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	inputting 86:25 87:6 117:14	interfere 12:12
Incomplete 110:7 187:22		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	inquiries 84:23	interim 231:18
		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	inquiry 69:7 70:13,20 71:9	internal 253:9 284:6
		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	insisted 241:22,25	internet 235:13,23 237:15,24 239:24 246:23 247:2 249:3 259:14 279:13, 22
		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	inspector 234:23 236:19 237:2,21 238:7, 11,17,24 239:15,25 240:12,23 242:22 244:1 247:7,15,17 277:11 283:1	interpretation 126:8 261:3
		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	instance 39:1 66:11 240:5	interview 29:6, 7 97:9 125:4 128:14 129:9 142:1,8 152:23 155:16 188:11 196:24 228:16 230:20 236:23, 25 237:12 240:13 241:2,3, 5 242:3,7,11 244:6,14,20
		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	instances 75:16 197:7 202:24	
		informed 217:23 218:4 230:3 231:3,6 260:1,12 265:25 272:18 273:3 279:5 282:25	instant 40:7,8	

245:3,10,23 250:10 251:6, 17 253:4,5,10, 20 254:4,8 255:8 259:3,5, 7,22,25 262:6, 11 269:2,14,15, 16 271:9,21 interviewed 121:22 122:11 137:23 142:4, 24 155:10,11 228:10 232:1,6 262:17 275:10 284:12 interviewing 29:13 97:16 interviews 97:10,14,21 137:24 188:13, 16,20,24 217:25 218:12 227:15,21 228:13 230:25 231:2 232:10, 11,14,17 241:19 251:12 257:1,5 262:8 266:23 267:2,3, 10 268:21,22 270:1,15 273:1, 15 274:22 276:13 inventoried 26:4 108:20 204:22 inventory 98:2,7 107:5, 19,20 109:25 130:20,25 134:9 invest 238:18 investigate 21:7 investigated 26:17 investigating 124:24 186:23 219:16 investigation	19:10,16 21:5 22:15 23:1 25:3,10 29:10 58:16,21 59:1 93:1 135:25 136:25 138:15, 19 140:1,6,11, 24 141:24 148:17 169:12 191:4 198:7 206:9,10 210:8 213:15 217:10, 14,21 218:2,6, 8,15 219:4,8,15 220:7 221:9 224:10 227:18 230:13 231:6 234:22 236:20 238:19 239:19 244:13 245:10 251:7,19,25 252:4,11,12 253:6,11 258:20 266:12 271:11,23,24 272:2 273:20, 24 283:6,11,17, 23 284:2 investigations 25:5 38:9,10 99:20 114:4 137:10 202:17, 20 232:25 241:19 245:6 252:18,22,24 284:8 investigative 16:25 17:3,9, 17,23 18:20 22:24 76:17 97:19 100:19 108:14 113:11, 19,21 114:5,12, 22 116:3,10,21 117:3,25 118:6, 10,16,19 119:4, 11,12,22 123:1, 10,11,13 124:16 127:14, 19,21,25 128:4, 9,12 129:2,4, 11,17,20,21 130:7,10,14,24, 25 233:23 234:1 272:24	276:6 Investigator 214:13,20 investigators 212:18 invoke 250:8, 12,13 invoked 250:14,16,25 involve 257:10 involved 19:9 26:8 32:1 37:6, 12,14 117:1 130:17 137:5 138:2,19 140:17 218:6, 10,14 220:24 221:6 222:17 242:25 257:11 266:3 involvement 98:4 125:6 190:23 191:2 217:10 218:16 220:23 221:1 262:16 involving 58:20 206:7 IR 63:1 65:17 66:8,13 68:13, 16 84:25 89:11 91:23 94:11 100:25 101:5,9, 14,15 114:3,12 116:16 146:21 159:5 198:20 irrelevant 148:12 149:20 164:12 180:8,9 182:18 201:16 issuance 71:4 issue 26:23 278:22 279:1 issued 69:7 70:13,20 71:8 94:14 116:20 issues 11:3 35:22 36:1	153:23 154:19 177:7 J Jackson 17:21 58:20 jail 50:24 147:1 James 7:10,20 13:11 110:2,4 141:4 146:16, 19 147:10,11 150:2 151:12 156:24 191:15 192:2,9 213:4 January 90:7 Jarone 175:10 Jennifer 132:15 188:12 Jerome 7:10 184:21 Jerry/jerome 136:5 JF 64:10,19 67:5 76:13,15 84:15 91:4,10 95:25 96:5 113:7 127:9 131:7,11 135:16 156:2 169:20 189:4 193:15 195:18 234:16 Jim 191:12 jimmy 68:11 110:1 146:16, 19,20,24 147:6 153:3,8 155:9 156:3 163:9,25 164:7,25 165:3, 6,11,16,18,22 166:11 167:17 170:19 171:3, 18 172:14,24 174:14 179:6, 14,15 180:15 188:17 193:23 212:11 JNB 166:24	job 32:17 245:14 John 214:21 joined 19:16 joint 50:21 149:8 153:19 179:24 Joliet 147:2 Jones 92:16 Jr 7:10 judge 32:21 145:18 238:22 244:24 judged 177:19 judges 39:9 judgment 176:6 201:23 248:13 249:7 July 243:25 248:3,12 249:6 jump 51:20 72:1 jumping 51:9 81:6,18 jumps 81:18 jumpsuit 50:20,21 jumpsuits 50:24 juncture 144:18 June 7:7 243:25 248:3 juries 39:9 jurisdictions 59:22 jury 32:21 218:13 250:20 justice 37:2 justification 128:7,11 juvenile 77:8, 9,11,13,15,18
---	--	---	--	--

78:7,14 80:8, 11,13 83:9,15, 17,20,22,24 84:6 juveniles 79:24 80:7 83:19 84:3	knew 28:11 95:17 137:11 146:24 147:5 149:22 150:3, 14 151:16 161:25 163:25 165:16,18,22 166:1 173:14 176:21 224:20 228:18,21 239:19 262:9	law 59:22 105:20 220:2 241:17,18 lawful 248:14 249:8,9,11 lawsuit 201:16 219:11 lawyering 37:1,2 lawyers 280:5, 6 281:7 laying 223:15 lead 25:1 42:13 164:13 leader 204:2 leading 37:17 50:6 LEADS 84:24 85:21 90:16 92:14 93:3,9 95:7 144:25 learn 137:14 238:16 learned 98:10 99:14 101:1 140:14 146:15, 19 230:13 leave 43:1 44:19 184:22 212:4,6 leaving 267:14 268:1,10 led 216:17 231:15 left 57:1,3,4,6 78:23 107:10 199:23 202:15, 19 204:14,25 leftover 199:22 legal 37:24 104:14 Lemoyne 60:13,14 length 171:24 leniency 143:1	144:3 letter 215:14 244:25 letters 219:11, 12,18 234:3 letting 43:12 227:22 level 52:4 53:5 192:20 license 59:13 87:21 90:2,3 115:8 licenses 85:21 lieutenant 24:15,16 65:22 234:24 257:2 lieutenants 25:23 257:25 life 244:21 light 197:22 lights 41:7,8 limit 130:16 277:23 limitations 21:19 limited 39:17 lines 43:19,24 lineup 12:21, 23 16:22 17:7, 20 37:13,15 43:2,5,10 44:3 45:3 47:4 49:3 50:5,9,18,23 51:4 54:2,3 55:3,12,13,25 56:8,12 57:21 58:1 97:24 98:6 105:18 107:14, 15,17 108:24 109:4,20 162:25 187:19 188:5,6 189:6, 10,14,15,19,21, 23 190:3,10,14, 23 191:25 192:2,6,8 193:11,21,23	194:7,9,10,11 lineups 43:15 48:20 50:13 107:11 109:3, 17 list 82:25 88:24 124:17 listed 77:14 83:9 123:12 127:18 158:3 170:9,12,13,14 175:11,16 189:21 253:15, 22,25 257:3 listing 141:25 lists 98:9 123:9 141:3,4 145:2 171:2 litigation 168:19,20 280:16,20 281:5,12,16 live 31:21 104:15,19 105:25 lived 31:21 98:11 110:11 146:25 living 154:13 load 118:5 loading 117:24 118:15 119:21 locate 115:23 145:14 217:20 269:14 located 7:5 161:12 269:7 273:6 274:7 locating 148:5 161:14 location 7:17 204:6,15,16 205:1 lock 211:3,5 locked 211:2, 4,10,11
K				
Kentuckiana 7:5 Kentucky 7:6 Kevin 130:6,9 131:3 134:1,8 key 210:23 211:2,11 keys 206:20, 21,22 210:20 212:6,7,9,10 kicking 64:7 kids 33:6 kill 61:14 killed 22:11 kin 217:20 kind 27:20 28:1 29:2 47:9 48:6 51:3 55:18 56:22 65:20 78:25 81:15 118:13 129:12 134:22 143:14 147:22 148:12 149:20 164:24 168:3 184:4 194:24 196:23 211:17 212:15 221:20 239:20 277:4 kinds 14:17 28:23 29:8 44:7 46:5 71:20 78:20 King 105:13 266:19 Kings 38:19 kits 73:1	knocked 223:13 224:2, 19 knowing 153:18 182:14 184:12 knowledge 24:11 71:14 142:7 147:5 154:18 183:23 218:8 219:5 224:13 251:24 268:11 275:7,8 L lab 29:16,17 73:1 laces 195:2 lack 88:13 90:8 106:25 111:7, 12 113:24 223:6 language 51:1 Laquan 217:11,20 221:8 236:21 244:3 252:12 253:5,11 258:20 266:12 283:9,19,24 late 220:9 232:20 Latin 38:19 105:13 204:18 Latino 62:21 Latrobe 146:25			

locks 211:5 212:11	283:21	make 11:3	155:11 169:8 172:14 242:25	89:4,10,16 90:7
lockup 56:9 195:8	lost-and- found 203:25 204:4	32:15 34:13 36:2,11 39:20 40:25 41:22 54:11 56:11 57:10 68:20 69:19 73:20 80:1 81:1,15 116:16 119:10 121:20 122:2 129:13,24 133:18,20 134:2,11,13 135:10 137:16, 22 144:11 176:5 187:18 188:4,6 226:12, 24 228:6 229:19 240:24 262:18,19 273:22 274:17 277:13 280:15 281:13	mark 63:17 167:10 207:19, 20	Mcclain 82:16
lockups 56:6	lot 23:16 26:8		marked 63:19 64:18 67:5,6 76:20 84:13,16 91:6,10 95:24 96:5 113:6,8 127:6,7 131:8, 11 135:15,18 156:1,4 166:20, 23 167:14 169:19,23 189:5 193:12, 14 195:18,21 207:20 208:1 234:17	Mcdonald 65:16,18 98:10, 14 108:8 110:20 217:11, 20 221:9 236:21 244:3 251:7,18 252:12 253:6, 11 255:9,13 256:12,13 258:20 266:12 268:19 276:6 283:9,19,24
logic 185:8	28:21 30:13 60:24 72:20 83:2 106:16 133:2 139:6 169:17 206:15 208:10 266:19			
logo 79:5	Louisville 7:6		156:1,4 166:20, 23 167:14 169:19,23 189:5 193:12, 14 195:18,21 207:20 208:1 234:17	Mcdonald's 254:16 272:23
long 21:22 46:7 53:24 54:1,8,13 71:19 85:25 129:4,6 153:19 165:17 171:9, 24,25 194:19, 21 207:10 230:2 249:21, 22 259:16 264:23	Lovers 204:18		marking 95:22 155:25	Mcneil 82:17
long-haired 54:3	LTS 78:1,3,9		markings 88:7	Mcvicker 209:8
longer 33:4 52:20 118:17 176:16 194:22 211:15 225:5 237:5,10 244:19,22	luck 73:17		Mary 111:7	meaning 18:8 193:7 205:19 216:7 241:8 243:11 284:2
looked 39:7 42:1 99:1 100:12 101:9 102:16 112:16 127:15 148:23 150:19 153:2,8 154:10 155:9 160:15 162:5 165:4 173:20 191:16 228:9 229:5 239:18, 22	Luna 108:1		mask 45:24	means 33:10 61:2 84:3 90:11 93:14,18 101:9 144:10 152:18 193:6
lose 32:9 216:6,9	lunch 126:14 127:1 222:24		master 70:4 73:8	meant 94:2 99:16 102:13, 14,17 104:12
loss 60:7 205:20	M	makes 32:18 43:25 51:4 53:8 78:23 133:17	match 56:12 91:23 98:25 148:14	meantime 87:5
lost 58:5 73:16 159:9 164:24 178:9 212:10 246:7 268:21, 23 269:1,6,11, 19 272:24 273:2,14,25 274:1,22 276:6, 10,14,25	Madam 10:19	making 33:12 227:22	matching 102:5 105:2,12	medical 12:2,3 220:17
	made 32:20 41:12,14 46:2, 22 65:22 70:15 75:17 83:24 94:3 105:23 108:22 118:14 122:16 144:4 161:9 169:10 191:11 238:23 244:2,5 264:21	male 45:15 49:9,22 104:24 107:25 147:16 163:10 170:10 183:15	material 270:10	medications 12:7,10,14
	mail 61:9 65:13,15 67:17 71:6 72:3,4,5,7 74:17,24 75:2, 18 76:6 157:19	male- 50:2	materials 273:7 274:12	meet 16:9 231:2 268:18
	main 7:6 28:8 90:19 99:10 134:10 210:21, 22	maltreatment 209:5	math 169:17	meeting 15:19 218:18,20,21, 24,25 221:2,4,5 232:23 273:3
	maintain 60:17,21	man 25:25 30:25 34:15 105:16 127:21 229:7 244:16 254:4 272:7	matter 7:10 35:23,25 39:18 61:22 147:23 180:2 183:16 220:8 232:19 263:21	meetings 13:17 15:10 16:6,14
	maintained 215:20	Maniac 105:12	Maurer 213:5 214:7	member 27:15 28:3 38:17
	maintaining 134:8	manpower 26:14 74:2	Maurer's 213:14	
		March 94:15 112:14 113:1 116:14,21,24 117:19,22 118:12 120:20 124:21 127:25 128:4,25 129:5	Maurice 88:1	

220:4	21,22 161:4	21,22	140:13 172:21	108:12,21,22,
members	230:23 259:3	money 112:11	219:23 242:23	23,24,25 109:6,
20:21	266:17	month 118:10	243:1 254:4	17,21,24
memorialize	misdemeanor	251:5,17	258:18	110:22,24
175:23	145:6	months 16:7	names 68:12	111:5,6,11,17,
memories	misdemeanor	31:22,23 53:23	78:20 79:11,25	19
28:23 30:22	s 21:21 138:12	72:21 118:11	82:12 83:1,2	negatives
33:21 34:20	misfiled	120:2 123:7	85:23 87:25	109:13
40:5 140:1,19	269:11,19	200:5,23	88:10,15	neighbor
memory 29:23	274:1,3	218:17 242:22	115:25 116:2	31:20 154:12
30:9,15 31:11,	misrepresenta	243:3,9,16	163:19,20	neighborhood
12,15,17 32:4,	tion 255:9	244:9 247:24	164:9,18,20,21	33:4 79:5
8,9 33:1 34:5,6,	missed 40:15	271:11,23	165:2,24 183:3	105:15 151:4,9,
11,17 35:4,7,13	264:5 274:19	months'	270:21 274:25	15,19 152:17
97:15 132:12	missing	242:21	narcotics	153:15 162:1
140:5,10	123:23 133:22	moot 221:21	92:17,20	165:17 182:19
mentioned	138:22 273:4,	morning 7:19	narrative	news 37:8
23:16 30:23	25 277:19	10:3 217:19	123:25 132:4,	NF 234:16
48:19 59:24	mission 24:5	220:8,11,13,18	18 133:2	nickname
62:4 76:6	misspoke	233:3,21	137:20 189:22	165:23
met 13:22	112:25	mornings	narrow 22:20,	nicknames
14:12 16:8 40:8	misstate	211:17	23	68:12
metal 212:16	185:14 247:1	Mose 88:2	national 93:16	night 28:12
Mexico 61:15	misstates	mouse 223:18	nature 34:21	206:24 212:10
Michael	14:21 15:14	move 243:2	35:9 66:16 72:4	217:18 220:10,
169:22 214:13	108:16 125:2,	moved 33:3	133:21	23 224:11
middle 132:4	20 152:2	63:24 244:17	NCIC 84:24	232:6,13,20
246:1,8,12	178:16 181:14	247:25	92:15 93:3,9	233:2 267:7
275:14	185:12,19	moves 243:22	95:7 99:11	268:10 270:14
midnight	222:3 225:1	multiple 60:5	necessarily	272:7 276:9
117:21 118:24	255:15 264:16	79:18	31:10 39:22	277:1,2,3,6
220:10	276:16 280:9	murder 93:11	51:18 60:12	nods 11:12
million 35:8	mistaken	95:5 140:1,5	80:7 109:25	non-arrest
mince 152:22	220:3	146:22 174:7	117:18 186:24	196:23
mind 10:22	mistakenly	191:4	187:8 188:6	non-ipra 284:2
53:9 144:2	11:7	murders 22:19	194:6	non-oig 284:2
165:3	misunderstan	23:3 26:9	neck 220:14	non-ops 284:2
mine 168:11	ding 54:20	myriad 28:16	necklace	nonetheless
minimal	moment	32:16 48:25	53:14	204:24 222:16
220:23	170:19 191:8	N	needed 59:23	234:8
minimum	253:23 254:6,		72:13,16 76:5	Nora 128:16
264:10	23 256:20		94:19 163:15	Noradin 7:11
minute 195:12	257:9,15	named 66:8	164:4 262:23	136:6 138:18
201:6 219:3	momentary	68:8 97:16	negating	189:18,20
minutes 16:11	40:9	98:11 101:4	206:15,25	193:4
32:10,12 105:3,	Monday	111:3,16	negative 57:22	Noradin's
	158:11 233:3,	127:22 137:23	103:3,16 104:8	191:10
			106:24 107:13,	
			15,17,20,21	

normal 70:6 71:21,24 158:18 159:24 190:12	numbers 82:4 85:14 159:8,12 168:21 177:18 183:3	obtained 98:21 101:21 147:11 206:13 266:20	offense 21:20, 21 34:20 35:5 54:4 92:9	19 283:25 OIG's 248:14 249:8 250:19 278:23 279:2 283:17,18
North 108:1 209:7	numerous 31:4 278:19	obvious 44:17	office 14:13 143:10 144:7, 13 168:19 208:19 218:23 223:12,22 229:19 233:19, 20 234:13,23 236:19 237:1, 21 238:10,17 239:14 240:24 243:2 247:6 261:15 268:18 271:25 272:1 274:20 275:3	older 27:6 84:22 85:4,10, 11 86:1,10,13
Northern 7:14	<hr/> O <hr/>	occasions 155:3	officer 68:23 114:19 115:2 144:24 189:22 211:6 228:10 237:10 240:11 241:16 251:7, 18 262:10	oldest 155:22
notated 265:3	O'BRIEN 246:10	occur 32:4 37:10 263:8 275:5	officer's 257:3	one's 80:20
notation 227:4 233:13	oath 184:22 187:16 241:23 242:1,4,7	occurred 21:8 31:15 35:8 124:3 142:8 145:1 166:10 168:13 170:4 230:10 233:18 259:10,15 263:9 265:7 268:12	officers 7:12 56:10 71:23 74:16 77:14 102:4 103:18 104:22 105:1, 11 117:23 145:7 228:14 231:3 241:5,15 262:5	one-on-one 102:10 103:13 176:24
noted 172:13	object 8:2 15:2 110:6 171:6 201:14 209:11, 22,23 212:16 252:13 261:11 280:8 282:6	occurrence 149:16,18 265:10,11	official 204:7, 24 205:6,13 235:7,10,18 263:14 268:7	ongoing 252:24 271:25 273:20
notes 18:25 221:11,15 231:20 253:20 259:2,7,17 266:22	objecting 246:21 249:2 281:17	occurring 31:13	officially 271:12,24	online 7:3 239:18,22
notice 232:19 233:5	objection 14:21 15:14 16:1,16 18:13 19:17 20:23 21:15 29:1,25 30:17 36:4,13 79:16 101:18 102:1 107:6 108:15 125:1, 20 143:3,4,5 148:25 150:20 152:2 158:4 159:21 164:23 171:20 173:13 174:9 179:1 181:14 182:12 185:12,19 186:19 187:22 201:4 203:1 215:7 221:17 222:3 225:1 230:15 252:6 254:21 255:14 256:6 257:7 263:3 264:15 267:4 268:3 276:16 278:10 279:3	occurs 22:4	OID 246:16	oops 156:1
noticed 8:10 94:20		October 19:5,6 159:20 160:1 200:17 215:4 268:20	OIG 235:3,4,10, 12 245:23 246:4,10,16 248:13 249:7 250:5,7,10 251:6,17,20,24 252:4,24 254:8 262:25 273:7 274:11,13,18 278:22 279:6,9 280:19 282:13,	open 21:13,18 22:11,12,19,20 98:6 136:1,2,24 138:8 139:24 141:12,16,19 148:8 170:23, 24 171:2 188:8 191:7,10 210:18,23 211:9 223:23 252:17 283:6
notifications 94:3		odd 118:13 272:6		operate 33:19
notified 92:12 113:25 220:9		offender 27:23 31:6,17 42:15 43:13 49:6,9 50:11,17 55:16 91:18 111:13 141:8,14,15,20, 22,23 151:14 152:13 162:19 171:3,4,13,14, 18 181:6,7,13 185:10 193:8		operation 74:15
notify 93:2 114:17		offenders 112:7 141:3,15 151:4,8 152:17 191:16 192:10 193:9		operations 203:22,23
November 159:20 160:1 208:20 209:20 214:10,12				opportunity 17:17 39:18
number 7:15 18:3 22:11 28:5 44:13,14 65:17 66:8,13 68:13 75:10 80:14,20, 25 82:10 94:11 96:1 114:3 119:16 128:15 129:21 133:20 169:3 171:13, 14,18 173:6 175:9,10 180:5, 14,15 186:25 192:9 194:23 207:21 208:5 226:18 234:23 235:17 244:19 245:9 248:18 257:3				opposed 37:12 69:13 161:5
				opposite 32:5 54:9 55:14
				OPS 206:11 208:20 209:12 212:18,24 214:21 252:18 253:8

option 216:23	265:7,8 270:17, 24 271:10,22 276:7 277:6	paper 64:12 70:4 73:6,9,16 89:8 99:24 123:18 182:6 218:16 219:7,9, 13,18,20 220:5 222:15 225:5 226:24 263:13	participate 97:9 188:16,20, 24 220:7 232:11,14	11
options 61:11 102:19 213:20 216:3	originally 55:8 207:5 212:19 215:19 261:20	papers 69:15	participated 97:20	people 27:17 28:10 31:16,18 32:9,10,11 33:5 35:4 39:8 40:2, 4 43:22 46:16 47:4 50:12 51:8 53:25 54:3 62:9,15 63:1 76:8 78:20 84:7 85:20 87:19 93:20 115:24 130:16 137:22, 24 164:4 165:1, 10 166:5 176:7, 8,21 177:13 181:24 183:14 186:3,13,18,24 187:5 216:24 217:24 218:1, 12 223:23 224:1,11 229:23 231:25 245:6 266:18, 24 267:16 269:5 275:1 277:24
orange 50:21	originals 271:15 272:13	paperwork 272:3 273:21	participating 21:5	percent 39:4 40:1 46:19
order 10:12 59:7 82:3,7 91:12,14,15,19 92:6,10,16,20, 24 93:25 94:4, 8,9,14 95:1,15 112:17,19,22 113:3 114:1 116:3 117:2,9 118:2,21 119:12,16 122:25 124:22 126:1 144:1 207:12 212:12 220:1 234:10 250:4 272:4 285:5,7,9	Otis 174:12,13, 17,25	paragraph 152:8 246:8,9, 12 248:12 254:12 258:2,4 259:18 261:23 266:17 267:21 268:17 272:23 275:15,23,25 276:5 282:18	parties 9:2	percentage 23:22 34:10 158:20
ordered 219:2, 20 220:5 221:5 222:7,8,14 226:21 232:18 233:4 248:14 249:7 273:16, 18	overflowed 113:22	parameter 129:12 186:11	partner 205:17	perfect 162:7,8 183:4
ordering 159:5 161:5	overrule 207:12	parameters 158:15	passage 30:15,21 35:19, 24 41:23 54:15 177:8	Perfection 183:4
orders 113:23 117:7,11,13 118:1,6,15,17 119:2,22 120:20,23 272:3	oversee 130:14 218:25 220:5 221:5	parentheses 112:11 271:5	passed 27:24 28:22 48:16	performed 213:12
organization 253:9 283:15	overseeing 40:11	Park 204:17	passes 44:11 48:4 54:18 134:7	period 21:22 84:1 109:4 120:22 160:8 213:20 250:17 251:1 283:6
organizations 284:7	overtime 216:7	parking 205:24 266:19	passing 48:11	periodically 25:13
original 76:9 85:12 169:20 170:1 171:12, 16 172:4 208:18,24 209:11 212:23 214:24 215:4 216:14 226:19 227:10 260:2,3 261:20,21	overweight 49:24	part 21:6 25:12 40:16 51:2 56:21 71:22 102:25 103:6 130:14 133:24 134:16,18 138:4,16 145:5, 8 150:6,7 158:17 168:6 205:15,22 206:12,19 217:18 218:23 223:4 226:3,25 227:2 251:7,18 252:3 255:22 262:3 266:14 271:17 278:7	past 39:23 87:6 134:16 137:10 176:24 213:10 236:16 240:9	perpetrator 124:25 161:25 170:21 178:5, 24 179:3,8 180:18 181:6 186:17
	<hr/> P <hr/>	partial 197:7	pat 223:2 225:6	
	p.m. 128:1 157:10 285:12, 13	participants 45:12	patrol 87:18 90:23	
	pack 82:4		patrolman 114:14,17	
	packet 82:5		pay 200:14 205:20,23 216:6,10,12	
	pages 60:5 67:21,22 69:3 76:16 80:23 81:5,15 87:24 89:4 131:13,17, 19 132:8,9 133:1 185:9 196:15 208:6 235:20		paying 215:17	
	paid 29:18 206:2		peel 223:7 225:6	
	pants 245:12		pen 57:5	
			pending 7:13 11:22 202:4,16	
			pension 200:10,14,24	
			pensions 201:2,13 202:1,	

perpetrators 170:20	Peter 209:9	8,15 194:9,18	11 198:12,16, 20 199:2,5,6,7, 17,18	Plaintiff's 7:18	
perpetuity 21:14,18 87:1 129:15	petition 238:21	196:18,22,23 199:9,14,15		plan 29:12	
person 27:24 30:7 31:19 32:1 34:9 39:3,24 41:3,11 42:3,14 43:9,20,21 46:24,25 47:11, 12 48:9 50:6,11 51:3 52:7 53:10 54:20 70:22,23 89:22 91:25 92:12 93:2 94:3 102:5 110:20 113:25 116:6 118:20 121:21 122:14 128:3 149:20 150:19 154:7,9,18 155:3 158:17, 23 163:25 171:4 178:23 181:25 183:7, 23 209:6 219:23 224:9 253:15 260:18 273:2	phone 13:19 14:6 15:12,23 16:13 92:23 229:18 260:4, 18	photograph 107:14 109:6, 12,18 187:25 194:5	phrase 45:4 physical 27:8 45:18 49:3,24 105:17 107:11, 13,15 108:24 169:3 177:5 184:17,22 206:7 210:4 212:20	play 154:4 155:1	
person's 132:10	photo 37:9,16 42:9,15 43:2,5, 16,22 44:3 48:20 49:2 57:21,24 58:3, 14 59:3,13,21, 24,25 60:18 63:2 66:12,18 74:3 101:17,20, 21,23,25 102:12,14,18 103:2,5,6,16, 21,22 104:7,8, 11,13 106:1,2, 20 107:4,20 108:11,25 109:19,20,21 110:3,15,23 111:18 146:13 147:9,10,11,14, 15,19,20 148:5 149:11 150:1,2, 9 151:25 152:9, 25 153:1,3,18 154:2,17,20,22, 24 155:8,22 158:7,18,25 160:19 161:1, 13,18,20 163:3, 8,9 164:21 165:24 166:9, 13,14 167:13, 16,20,22,24,25 168:4,7 169:1,3 172:10,20 173:10 174:5 175:11,16,21 176:1,4,6,19,24 177:17,23 178:2,4,14 179:15 180:18, 23 181:2,10 182:10 183:7 184:11,16,20 185:20,25 186:15,17 187:9,19 191:2,	photographed 158:14,16	photographic 31:16 40:4	physically 45:20 184:11	played 217:18
personal 59:14 103:20 142:7 147:5 151:11 204:13	photos 13:8 37:12 42:10,22 43:12,20 58:16, 22 59:3,5,7,10, 11,13,15,17,25 60:6,11 61:2 62:6,7,11,20 64:20 65:2,4,5, 9,15,17 66:3,7, 13,22,24 78:18 88:25 89:11,12 106:9,13 107:4, 16,24 108:13, 20 146:3,13 147:14,16,20, 21,24,25 148:13,14,22, 24 149:2,7 150:11,18 153:6,7,9 154:9,21 157:23 158:1, 24 159:5,7,11, 19 160:1,8,17 161:21 162:4, 24 163:4,10,18 164:9,22 166:25 167:18 168:1 169:2,7 177:6,23 178:7, 10,12,15,22 179:6 183:7 184:23 186:7 189:23 190:3, 10,14,19 193:11,20 195:19,20 196:16 197:3,8,	photographs 148:9 166:5,6 178:1 198:9,10, 11,20	pick 22:5 23:5 52:25 55:9,24 62:22 72:5 75:1 101:23 102:17, 19 111:15,16 161:3 223:8	point 11:22 19:8 22:1 23:7 37:10 44:23 52:18 60:18 63:4 83:5,24 86:11 99:18 109:2,3 114:3 117:11 124:21 125:11 126:5 149:21 165:14 221:9,14,21 227:17 229:12 230:16 238:20 243:24 244:9, 17 269:16	
personally 60:20 152:5 273:11 275:3			picked 74:24 97:23 121:21 165:11 191:15	pointing 69:6	
persons 55:18 91:18			picks 53:8 165:3	points 49:4	
perusal 139:8			picture 87:12 110:21 149:9 153:17,20 155:15,17 162:12 164:14 175:9 180:3,5, 6,8,14,15 183:2 187:17 195:1	Polaroid 196:22	
peruse 183:24			pictures 13:8 60:5 65:24 165:1 176:17 180:16,25 181:3 184:3	police 7:12 19:1,3,15 35:17,21 38:8 56:9 64:20 79:4,6 93:15,20 144:24 168:1 199:24 201:3 202:12,15,19 211:6 212:5 220:4 235:15 241:5,14 251:7, 18 252:10,18 253:2,4,10 267:17 280:5 283:16,23	
perused 138:20 140:15			piece 263:13	police-related 26:17	
Pete 258:19			pieces 169:3	policing 79:5	
			pinpointed 204:15	policy 21:10	
			pipe 212:16	ponytail 170:15,22 171:5,10,14 172:1,3,5	
			place 197:24 198:1 206:20 278:23		
			plaintiff 7:20 9:1 285:7		

Pookie 60:12, 14 105:16	26:6 27:7 76:7 111:13 124:24 142:16	204:3,7 226:15 227:8 228:12 229:24 242:16 262:6,16 264:4 269:13,17,18 281:13	priest 34:16 print 61:20 65:17 86:6 100:14,16 123:7	problematic 164:9,20 178:25
poor 245:6	potentially 10:13	preparing 14:19	printed 63:23 86:7 100:12 120:1,3,10 123:2	procedure 41:21 45:3,7 57:21 103:19 106:23 111:22
portal 109:25	Potomac 60:13,14	preponderanc e 212:20	printout 77:6 81:5 84:14,15 86:5,10 88:6 100:5	procedures 35:18,23 46:6 148:21 241:4
portion 277:18	pouch 72:5 74:24 75:2	present 32:17, 19 33:14 41:16 148:24 192:6 232:13 241:10, 12 259:16	prior 10:15 24:15 38:3 57:20 60:22 62:16 85:4 86:25 97:12 103:11 120:16 139:17 146:16 152:3,18,22 153:20 154:18, 19 161:14 183:20 190:14 202:23 206:24 207:14 212:11 220:11 227:15 230:6 231:1,13 241:11 244:11 255:15 256:8 259:25 261:12 262:24 263:22, 25 264:9 269:16 272:5	proceed 29:12 32:22 33:14 242:11
portions 222:18	pounding 48:11	presented 39:7 216:22 240:8,9 241:8	printouts 98:25	proceedings 7:1 13:14
position 19:14 194:20,22 280:18	pounds 44:10	presenting 263:14 279:15	process 25:8 134:5 237:8 262:4	processed 156:18 157:3
positioned 194:6	power 144:8	preservation 225:24	produced 168:18,22 235:15 237:23, 25 238:2 247:2, 4 249:3 279:24 280:1,4,6,19 281:1,4,12,16	production 282:8
positive 46:23 47:20,22 48:14, 18 57:22 85:24 100:11,17 108:21 191:12, 17 192:22,23, 24 193:5,6,7	practice 21:10 104:5 136:24 182:24 183:6 190:13	preserve 108:13 109:20 223:2,3 224:14 225:9 226:2 276:7 277:2,6 278:1,7	profession 36:17 37:6	Professional 208:20
positively 47:12 192:2,8, 17 271:2	practices 153:22 182:14	preserved 271:15 272:13 278:4,9,13	profiles 176:12	progress 96:6 131:13 221:10 256:25
possession 221:10 270:3, 17,25	pre 261:5	preserving 109:19	probable 95:8 114:21,23 115:1,4,21 119:5,19 121:16,18,19 123:24 124:5, 10,13,17,21 125:11,14,24 128:18,21	progressed 52:12
possibilities 182:1	pre-automated 70:2	pretty 73:24 77:12 89:18 102:9 156:7 173:21 178:5,7 211:25 223:6 228:12	problem 117:6 165:24 194:13 229:13	promise 144:4
possibility 94:23	pre-coffee 261:5	prevent 12:4,8, 14 155:8		proper 114:15 135:11 204:3 219:13 248:6
possibly 47:3 75:19 98:7 115:23 132:13, 21,22 133:8,9 147:22 157:14 196:18 242:23 262:22	pre-cris 70:1	prevented 186:6		properly 137:18 204:22 219:6 245:9
post 142:19 227:14 231:13 273:15	predated 86:14 87:8 113:22 119:23	previously 151:8 152:16, 18,22		
post- conviction 13:14 235:8,22 236:2 238:21 239:23 240:10 279:15	predating 117:15			
potential 22:21	preface 248:21,25			
	preliminarily 12:1			
	preliminary 206:10			
	preparation 13:1,18 15:11 16:5,9,14 17:23 135:21 139:24 140:8 189:11 228:15			
	prepare 12:18 15:19 269:9,22			
	prepared			

property 209:16	207:24	54:22 60:18	242:15,17	re-interviewed 97:5
prosecuted 144:13	pulling 54:10 55:15 63:1	62:14 76:5	243:7 280:12, 22 281:7,18	re-looked 26:25
prosecution 145:4	76:15 101:10 166:19 186:7 228:24	96:21 99:23 124:20 128:8 148:16 177:13 201:22 224:17 274:13	282:2,12,16 284:15,19	reaching 208:21
prosecutor 243:1,22 244:10 245:13 247:25	punching 99:23 119:14	<hr/> Q <hr/>	quick 126:10, 11,12,14	reactive 212:14
prosecutor's 243:21 244:15	punitive 201:21	quality 177:6	quickest 61:6	read 101:19 103:1 123:22 139:10 140:2 142:10 166:18 167:7 182:6 183:11 192:5 210:18 225:4 239:13,16 275:23,24 277:5
prosecutors 39:8 242:23	purchase 281:23	question 11:1, 4,15,16,18,19, 23 12:2 15:9 16:5 18:18 30:1 38:13 39:5 72:19 85:7 124:20 139:19 155:14 170:25 180:4,5,7,12 182:20 187:15 198:5 201:12, 16 202:4,8 236:5,9,12,18 238:16 239:22 248:20 249:15 253:7 255:17, 19 256:7,8,19 259:24 260:5, 11 270:23 275:1,25 276:2, 20 282:8 283:20	quotes 267:18 quoting 48:1	reading 102:25 111:11 152:8 161:22
protect 204:2	purpose 10:21		<hr/> R <hr/>	reads 136:7 191:14
protecting 204:11	purposes 14:19 59:2 60:23 100:19 116:4 137:17 148:20 241:6,7 272:4		R/det 136:8	ready 127:3 243:6
protested 219:3	pursuant 250:21		race 49:21 168:9 187:1	real 66:5 114:8 154:3,19,25 281:10
provide 142:25 242:14 243:4,6	put 41:18 49:9 50:1,19 51:16 54:8 57:2,5 61:8 62:9,15 67:3 71:8,15 73:14 76:11 82:25 88:6,9 90:7 91:1,19 92:4,11 93:6 95:6,14 99:5 102:5 104:4,25 110:16,21 112:19 113:2,5 114:24 118:9, 12 119:11,20, 24 120:1 121:23 122:16, 19 126:3 129:11,20 130:9,17 131:6 137:25 141:13 150:5 187:10 195:10 204:19 215:13 217:9 219:18,20 222:14 223:9 227:3 229:4 273:18 275:2		raise 9:7 39:20 40:25	real-world 153:23
provided 128:7 130:24 206:15 216:20 264:3 273:7 274:11,12		question-and- answer 10:17	RAMIS 85:17, 18 98:21,24 99:3,11,12,15 100:1,6,9,17 101:3	reality 30:21 183:18
proving 190:14		questioned 224:12	ran 59:13 92:5 100:2 101:3 104:25 105:1 114:14 163:22	realized 99:18, 22
proximity 186:20		questioning 94:18,21,24 95:18 113:4 114:25 119:18 123:25 124:2,6 125:16,18 126:1 150:5	range 38:21	reason 22:4 33:11 51:9 80:14 95:21 103:9 141:11 158:24 160:16 163:15,22 164:3 211:13 221:25 226:13 234:7 240:17 259:6 260:9 267:1,10 268:1 269:10 274:21
public 22:9 148:8,10 215:15,17		questionings 117:15	rap 67:16 68:3 156:3 157:25	reasonable 213:18
Puerto 187:3		questions 10:18,20 11:25 12:4,9,12,15 15:1 44:8,12 201:18 237:14, 17 239:21	rape 73:1	
Pugh 82:18			Rare 26:11	
pull 59:10,25 60:15,19,25 63:2,3,18 66:7, 12 73:19 78:18 79:11,13 90:9, 11 99:4 129:21 146:2,13 164:4 170:18 198:12, 15			rarity 138:15	
pulled 34:25 77:18 79:8 160:17 164:18 166:17 168:15	putting 34:4 35:24 53:13		Ray 136:4,5	
			Raymond 7:11	
			RC 214:11	
			RDET 128:13	
			re- 233:11	
			re-interview 28:7 122:14	

reasons 18:11 28:1 79:12,18 142:21	recognition 261:17	84:6 85:15,24 89:21 145:23 146:2,12	referred 108:8	relationship 31:18 103:15 104:5 151:11
recall 12:17 17:25 18:23 20:8 31:9 35:14,16,20 36:6,9,15 37:19 40:21 89:2 98:3 107:18 109:12 117:10 188:15, 19,23 189:2 190:12,19,21, 25 191:6 192:4 203:12 205:12 206:1 207:8 210:22 215:9 219:24 220:13, 18 228:20 229:3,21 230:5, 6,22 231:24 232:5,9,20 233:7 240:17 248:2 253:21, 24 254:6,22,25 255:19,21 256:18,20 257:8,15 258:6, 10 260:14,20 261:1 262:17, 22 265:13,14 266:2 272:20 274:4	recognize 43:19 132:9 149:24 174:6	157:22 198:17 205:25 206:2 251:4	reflects 118:11 251:4	released 145:19
receipt 133:16	recollection 19:11,13,19 38:2 63:11 85:11 100:8 132:12 136:21 226:7 255:20 262:7 263:23 264:1,8 274:24	recovered 204:1	reflected 98:4 188:14,18,22 189:1 190:20 191:5 205:11 217:6 228:4	relevant 45:6 182:22 201:24
receive 16:24 18:21 61:9 133:25 206:5	recommend 213:18	recreate 226:13,22 232:16 261:7, 19 266:1	reflects 134:20 270:16	reliability 35:13,18,22 36:1 38:11 40:12,19
received 16:23 21:8 22:17 75:22 110:10 131:3 203:18 219:11 234:3 235:4 239:16 262:14 283:10	recommendati on 206:11 207:10	recreated 227:9 230:3,4, 14 254:19 255:12 257:4 258:23 261:8 265:24	refreshes 35:7 refuse 242:17	reliable 41:22
receives 133:16	recommendati ons 283:25	red 104:24 211:6	refused 240:18,19 241:21 242:6, 18 243:23	remain 21:18 214:3 215:3 244:17 245:1 250:15,17,21, 23,25
receiving 82:22,23	recommended 207:6 213:25	redact 163:19 168:20	regard 94:19 143:2 191:8 238:18 253:4,5	remained 215:2
recent 17:21 66:17	recommends 278:22 282:19	redacted 168:12,24	regarded 227:25 256:19 276:20	remaining 226:1
recently 158:13	record 7:2 8:21 9:16 10:9 58:7, 10,11,12 59:12 64:5 69:13,17, 21 70:3,8 80:9, 11 84:14 89:14 92:13 93:1,14 95:10 96:23 101:14 113:3 114:1 126:3,18, 21,22,23 156:22 167:12 195:14,15,16 201:6,8,9,10 247:1 249:24, 25 250:1,2 280:24 285:1, 12	reduced 213:23 216:11	regular 29:10 190:17	remains 22:11 250:20
	recorded 8:1, 2,9 80:12 152:6	redactions 166:16	regulations 278:20	remember 19:21 24:8 25:11 31:3,9,17 32:6,25 34:24 35:1 40:5 42:2 48:15 66:14,20 76:4 85:3,15 87:11 90:13,20 99:9,11 100:11 109:14 118:13 120:18 121:17 139:10,12,13 140:16 204:8 224:5 229:7 231:12 254:17 255:4 264:6 266:13,15
	recording 8:4, 11 128:13	reemployment 278:25	reinvestigated 26:24	remembered 27:16
	records 77:9, 11,14,16,18 78:7,14 83:9, 21,22,24,25	reexamine 26:4	reinvestigatin g 21:4	remembers 31:5
		reexamining 24:24 26:6	reject 123:22 124:7	remembrance 264:8
		reference 42:3 78:23 145:25 196:6	relate 256:25	reminded 19:2 25:15
		referenced 61:1 238:22	related 94:11 145:12 205:23 206:6 209:16 236:21 255:17 259:22 276:13 283:18,24	
		references 136:8 146:8	relating 268:20,22	
		referencing 81:9		

reminds 77:14	265:25 268:5,6, 7 271:1 273:16	244:23	104:22 243:12, 13,14	review 12:25 13:3,5,8,10,13 17:4 41:15
remotely 8:17	277:11 278:24	reprimanded 203:16 205:1	responded 265:18	97:11,12 98:5 121:14 122:1
removed 22:25	279:9 280:17, 19 282:13	request 61:8 64:20 65:1,3,12 66:25 68:20,25 69:20,25 70:5, 7,15,21,24 71:3,4 72:1,2 74:13 75:17,19, 25 89:12 91:13, 14,19 93:15 101:12,14 115:9 118:1 121:4,11,12 122:19 127:24 198:11 204:13 240:15	responding 104:22 212:6 263:8	124:14 129:13 137:15 138:13 143:22,23 150:23 155:6 190:22 207:2,3, 15 214:7,22 216:18,25 217:8 222:11 227:24 228:2,6, 13 231:4 241:11 261:24, 25 262:24 263:1,18 265:18 269:10
renew 122:6, 10,14	reported 151:5		response 69:25 73:24 212:1 240:21	
renter 206:18 210:20	reporter 7:2,4 8:6,8,13,15,19 9:2,6,12,20,25 10:19 11:13 58:7,10,12 64:1,4 76:21,25 126:21,23 143:4,7 195:14, 16 201:8,10 249:24 250:2 284:17,21,25 285:4,6,8,11		rest 56:5 243:17	
repeat 40:15 45:4 202:6,8 253:7 284:17 285:6		requested 22:23 65:9 108:19 116:14 120:4 128:3 157:15 159:7, 11 190:19 218:18 221:2,3 227:18 228:11 243:4	restrictions 77:15	
rephrase 11:16		requesting 66:1 69:12,17	resubmit 124:10	
replaced 269:6		requests 71:20	result 37:23 57:20 106:20 250:18	
report 12:20, 21,23 16:22 18:9 41:13 67:8 68:5,21 70:9,17 77:14 79:3,7 83:9,15 96:6 98:6,7 100:4,9 120:12 135:17, 24 136:1,4,8, 12,14,18,20,24 139:7,20,24 140:5,7,9,25 141:13 147:7 150:23 151:3, 21 153:13 155:24 160:16 161:11,22 162:2 163:8 164:6 165:20 166:10 169:21 170:2,19 183:21 188:8 189:6,10,14,15, 17,20 190:6,10, 14 191:8,11,25 192:20 203:25 204:3,7,19,24 205:6,13 209:1 213:2 215:4,9 222:6,18 225:18,19 228:3,9,15 229:6 231:13 234:22 235:3 238:11 253:14 259:14 261:9, 13 264:24	Reporters 7:5 reporting 85:19 99:17 136:3,5,9 137:17 142:4 145:22 189:15, 21 257:3 reports 19:22, 25 20:2,16,17, 21 73:8 99:4,24 131:14 136:7 137:10 140:16 219:14 221:7, 10 222:1,17 223:10 225:12 226:5,10 232:16 256:25 263:24 264:17, 21 266:1 271:14 272:9 273:3,5,17 274:5 276:10	rescind 282:20 rescinded 282:22 283:5 research 22:20 reserve 284:16,18,19 residence 142:18 145:11 resident 144:10 resolved 24:10 resort 59:15 respect 270:13 respond	resulted 13:15 106:24 109:4 111:19 results 72:21 73:15 237:2 retire 199:25 200:9 243:24 245:8 252:16 retired 24:12, 18 129:16 199:24 200:16, 18,19,21 202:16 219:25 251:15,22 252:2 retirement 243:25 251:5, 23 252:3 282:20,21,22 283:2,3,10 return 232:12 returning 220:17 revealed 142:19 reveals 115:10 reverse 214:24	reviewed 12:20 16:21 17:5,7,22 97:18,19,24 135:21 137:9 139:23 140:9, 12 189:11 190:10,13 216:22 228:14 230:7 236:6,14 262:15,20 263:24,25 reviewing 44:21 140:4,7, 24 reviews 134:7 revisited 27:14 rewrite 226:9, 22 260:3,13 261:7 rewriting 229:17,19 rewritten 231:7 271:13 rewrote 231:19 260:22,24 263:1,18 RFC 207:21,23 208:2 Rican 187:3

ridiculous 277:16 279:17	Ruckrich 214:5,7,8	save 225:25	screening 85:21	seeking 123:11
right-hand 80:18	Rule 205:9,10, 13 208:22	scan 220:13,15	scribble 90:6 233:12,13	select 62:19
rights 37:1 241:17 244:8	209:5 214:25	scanned 97:23	search 78:19 79:10 80:6	self-defense 210:9 212:13
Rinda 209:8 211:23	ruled 244:25	scenario 182:24 197:9	82:13 83:7,15, 19 84:14,21	self- incrimination 250:9,14,25
road 122:18 265:19	rules 10:7 60:16 278:19 282:5	scene 26:11 170:1 171:13 172:4 217:16, 18 220:7	85:8,14 86:6	semi-truck 266:18,20
robbed 192:10 193:9	ruling 250:19	227:20 254:17 266:18 272:25	searchable 80:3,4 129:23 138:1	send 61:10 65:3,7,8,9,13, 14,15,16,18,25
robbery 101:6 110:13 146:22	run 26:15 37:15,16 70:7 72:15,17 77:22	scenes 26:12	searched 78:5 85:6 87:9	66:17,22 67:2 70:5 72:10
Robert 253:16, 22,25 254:4	79:22 82:19 83:15 84:1,5	Schalk 7:11 20:18,20 92:20, 21 94:15	146:18 186:10	75:22 135:8 156:18 157:21, 22 190:17
Rogers 67:17 68:8,9,10,11 92:4 93:25	85:20,23 86:20 89:14 90:2,14, 15,16,23	114:17 117:2, 17 118:3,9,19	searching 17:19 78:14 85:1 154:16	198:12 208:8 243:15 244:25
94:9,14 112:1, 8,9,19 113:4	101:13 222:24 223:5 225:4,14 233:19 261:17	119:10 121:5, 14,23 124:24	seasoned 137:9 138:17 139:2	sending 66:21 69:14,24 197:11,12
114:6,7,13 116:11 117:1,3 124:24 142:1,3, 9,11 143:12	running 37:13 80:16 84:10 86:16 89:13	128:5 132:13 133:4 134:19 136:4,5,15	seat 38:22,23	sends 199:15, 17
116:11 117:1,3 124:24 142:1,3, 9,11 143:12	86:16 89:13 105:2 211:24, 25 212:2,4	138:17 139:2 160:17 179:5 189:16,17,19, 24 193:4	seated 45:11, 13 50:14	sense 81:16 119:10 129:24 274:13,17
144:1,4 145:1,2 146:23 147:4 148:16 149:13, 25 153:11	runs 44:9 87:18	Schalk's 132:11,14,19 133:10 191:10	secondarily 154:4 241:16	sentence 147:15 191:14, 17 248:12
155:11 161:19 163:25 164:7, 21 165:16,22 176:22 188:11	Rutherford 98:10,14 108:8 110:20	scheduling 14:17	seconds 39:18 40:24	249:6 255:7 256:15,18 260:22 261:24
Rogers' 112:9 143:20,21,22	S	school 33:7 34:23	Secretary 84:23 90:15	265:5,16 267:24 271:4 274:16 276:24 277:4
Rogers's 70:16	safe 33:8	scientific 27:10 38:5	section 61:3 65:8 68:18,22, 24 69:19,20,24	separate 14:15 37:4 83:25 121:6 266:23
role 198:5 217:13	safer 150:10	scientist 34:11 40:3	70:23 71:16,18, 19 72:25 73:5, 23 75:12 90:9	separately 58:3
roll 25:15	safety 204:13	scrape 221:22	101:12 132:4, 18 133:2	separation 83:23
room 196:24 211:22	salvage 226:6	screamed 48:16	141:25 156:18 157:21 161:10 168:2 170:6	separations 81:19
routine 158:9	sat 16:12 21:22 173:15 228:8	screen 63:17 64:11 69:5	197:11 198:7,8, 17,19,22,24	September
rows 177:13	231:16 236:25 245:4,11 264:2	76:14 90:1,6 100:7,14,15,16, 17 127:9 156:7	199:2 245:22, 23 246:9,13 254:8 256:24 266:7,8 270:9	
Roy 233:20	saturated 222:25 223:7, 15 225:5	166:19 168:16, 23 173:2,5 208:8,9 213:1	Security 168:21	
Roy's 233:20 234:13	Saturday 209:6 211:14, 17			

268:17 271:9 272:19 sequence 82:3,10 sergeant 17:8 20:3,8 22:6 23:12 27:2 33:18 40:11 42:7 65:22 99:12 120:15 121:3,10,11,17, 19,24 122:1,7, 20 123:14,17, 19 124:3 129:13 130:17 131:21 132:2 133:16 134:6,7, 21 135:3 138:7 212:6 217:22, 23 220:24 222:17 sergeant's 133:23 sergeants 90:18 series 195:19 196:16 served 116:4 service 200:5, 7,9 session 10:17 250:20 set 11:25 14:7 29:16 49:3 74:18 112:1,8 125:9 196:15 262:9 sets 162:24 setting 227:21 230:25 231:1 269:14 settle 32:14 seven-person 167:13 sex 168:9 sexual 32:2 45:14 95:12 138:12	sexually 34:15 sharp 39:24 99:21 shaved 52:17 53:10,12 shaven 53:21 she'd 151:19 Sheenee 150:25 152:25 155:12 161:15 188:21 192:7 sheet 67:16 68:3 112:12 156:3 157:25 shenanigans 244:12 sheriff 144:24 Sheriff's 142:20 144:22 shielding 27:21 shirt 49:15,18, 19 51:13,15,16 shirts 51:17 shit 245:7 shock 32:13 shoes 104:25 195:2 shoot 61:15 shooter 39:19 shooting 26:18 40:7 104:21 105:4, 15,16 152:19 160:9 217:11 231:21 236:21 254:16,20 260:6 267:19 270:15 272:25 276:9 277:1,2, 3,7 283:25 shooting.' 259:24 short 14:5,16 15:21 50:11,12	52:2,18 53:8, 22,23 54:4,8 102:7 175:2,4,5 200:2,3 217:16, 17 232:18 233:1,5,7 234:10 264:19, 22 short-haired 53:25 shorter 54:13 shortly 104:16 264:17 shot 28:19 38:16 105:13 192:10 193:9 255:9,13 256:12,14 shots 104:22 232:4 255:11 256:1,2 show 42:22 60:3,9 63:16 64:11 67:3 74:5 76:13 84:12 92:6 95:22 103:5 106:2 108:11 111:4 123:8 127:5 131:7 135:15 141:18 150:9, 10,18 152:9 154:9 155:25 166:5,14 169:19 173:1 227:9 show-up 101:17,21,25 102:3,9,12 103:2 104:11, 12,13,14,15 105:10 106:2, 16 111:14 show-ups 104:19 105:25 106:1 showed 42:10 103:2 106:13, 17 107:22 110:14,21 155:15 161:18	162:13 163:23 164:21 179:21 181:18 184:24 212:7 showing 37:12 42:23 43:11 60:8 64:18 67:4 91:9 96:4 100:4,14 102:14 112:22 113:6 131:10 155:17 156:1 163:18 165:1 177:13 181:10 193:14 195:17 206:17 207:19, 20 213:1 214:9, 11 235:5 279:19,24 shown 42:15 57:24 58:1 101:17 102:15 106:9 107:21 108:23 150:2 161:19 162:4 176:23 183:12 217:7 235:22 259:18,21 shows 152:8 189:18 shy 200:4 sic 7:5 188:12 side 67:4 76:12 91:2 113:6 131:6 217:10 284:24 sighting 155:3 sightings 154:19 sign 133:9,25 signature 119:17 120:24 126:2 133:23 214:6,8 235:6 238:6 247:10, 12 257:3 284:16,19,20 signatures 131:18 133:22 240:6	signed 98:2 145:7 228:18 238:5 271:14 272:8,11 signing 240:7 signs 133:17 134:7 silent 244:17 245:1 250:15, 17,21,23,25 similar 10:15 46:24 47:3 53:5 54:2,7 55:5 56:12 70:11 85:8 116:4 123:15 127:15 148:13 163:5 178:5,7,11,15 180:25 181:3 191:16 193:5 235:9 236:16 240:9 similarly 11:7, 18 45:22 51:24 55:7 simple 279:11 simply 185:9 single 68:13 103:21 106:2 150:9 151:25 sir 18:18 212:25 234:25 sit 52:3 63:14 73:11 87:15 97:17 118:25 123:20 139:14, 15 223:25 239:13 240:12, 15 241:22,25 242:6 244:20 253:23 254:5, 23 256:20 275:7 site 148:4 153:18 239:25 240:2,3 sitting 36:7,21 153:24 200:15 233:9 237:11
---	--	---	--	--

244:9 247:23 257:9 265:15 266:4 274:3 situation 33:13 40:22 47:9 56:19,22 162:7 six-person 186:2 skip 8:22 19:1 skipped 134:16 slightly 116:4 167:6 slim 170:13 slip 98:2 slipped 262:21 small 156:7 so-and-so 56:25 262:10 soaked 221:19 Social 168:21 soiled 228:1 solemnly 9:8 solve 24:4 solving 22:17 somebody's 50:6 279:14 sooner 180:14 Sorrell 19:9,16 58:15 59:1 128:15 133:10 135:25 140:1,5, 10,24 169:11, 13 172:16 173:12 174:7 175:18 191:4 192:11 193:9 Sorrell's 143:18 sort 14:16 21:11,13 56:20 196:22 232:8 282:12 SOS 99:11	sound 109:7 Soundex 84:23 sounds 17:13 27:3,7 104:7 132:25 133:1 207:9 272:6 source 61:6 space 224:1 speak 22:13 45:16,19,25 91:21,25 94:19 114:18 115:3, 24 129:1 144:1 161:17 183:21 216:20 227:18 228:1 260:15 267:7 speaking 24:22 116:25 269:8 special 242:22 243:1,20,21 244:10,15 245:13 246:3, 14 247:24 250:19 257:23 258:13,15,17 specific 25:11 35:14 36:20 38:14 70:8,9 87:17 88:24 91:24 95:1 111:15 138:7 162:16 227:7 262:7 specifically 14:18 35:20 36:6,15 37:19 40:21 78:13 110:14 155:20, 24 157:2 160:20 185:21 201:25 205:12 227:5 228:17, 20 229:10,21 231:24 238:20 239:3 255:21 260:7 265:14 267:19 272:21	specificity 63:7 266:3 270:22 276:19 speculate 160:25 speculating 163:21 speed 137:14 spell 9:16 spelling 138:21 spend 139:5 208:10 spending 137:13 spent 10:4 147:1 spill 265:24 spilled 221:25 222:2,25 223:10,14 224:9,24 261:15 264:12 276:12 spin 271:19 splitting 176:21 spoke 13:19 14:1,6,25 112:25 218:3 220:25 260:17 263:22 264:8, 10 269:5 spoken 116:6 150:17 152:13 260:18 spread 42:15 43:2 60:15 103:16 107:21 108:25 111:15 184:11,16 spreads 107:20 spur 35:4 stage 89:12	stairs 211:7 stamp 69:6 70:13 71:4,8,9, 15 112:23 156:12,21,22 157:5 167:5 stamped 71:2 156:17 166:24 207:23 281:23 stamping 70:22 stamps 166:19 238:1 stand 50:23 51:3 54:19 57:11 183:10 218:6,14 219:6, 14 221:1 222:8, 13 234:5 268:8 272:5 standard 178:3 Standards 208:20 standing 55:2 109:19 222:8 stands 256:9 star 131:23 226:18 257:2 272:12 282:21, 22 283:3,11 start 9:22 16:12 24:10 30:13 38:20 81:12 82:7 114:5 131:17 151:2 208:9 started 19:3 24:9 62:14 87:3 129:11 starting 7:18 82:5 state 7:16 9:15 29:16,17 36:20 39:12 45:12 73:1 75:9 76:1 84:23 90:16 103:13 105:21	110:15 111:23 122:16 153:13 155:16 157:2 160:20 183:20 196:3 197:18 238:5 241:17 255:2 260:17 262:7 264:9 281:21 state's 44:20, 24 47:7,21 143:10,25 144:7,13,17 166:17 168:19 191:23 218:11 219:16 272:1 stated 36:18 47:25 49:7,13 65:11 108:22 112:6,8 143:24 148:1 151:7,13 152:16 153:14 154:5 155:2,13, 20,23 160:25 161:24 191:15 193:3,8 210:7 239:23 255:8 256:21 260:8 261:12 262:3 267:8 270:20 271:22 273:24 277:25 283:12 statement 143:17 213:14 246:6,17,18 248:15 251:8, 11 255:10,18, 22,25 256:2 257:25 266:21 270:18 271:3 277:13 statements 188:13 221:12, 16 276:8 states 142:17 215:1 241:18 276:24 279:16 stating 125:8 151:14 171:22 179:18 204:10 242:24 254:25 255:5 260:15, 16 269:18
---	---	---	--	--

271:2 273:21	278:10 279:3	47:15 103:18	submitting	summons
status 120:16,	280:8,12,21	132:8 147:18	29:14 273:16,	206:13
17	281:6,17 282:1,	156:22 190:22	20	Sunday 233:2
statute 21:19,	5,15,23 284:16,	192:24 212:14,	subpoena	sunny 41:9
23	18 285:8,10	15 252:9 256:1	237:6 240:16,	superintenden
stay 21:13	step 19:2	272:16,17	19,21,22,25	t 214:5 219:22
200:11,12	stipulate 8:24	283:15	243:3,11,23	superintenden
216:5	stipulated	strings 195:8	245:15 246:5,	t's 218:23
stayed 216:11	8:21 9:1,5	stroke 117:21	17 247:25	superiors
staying 200:11	161:19	118:24	248:9,15 249:8,	213:13
Stefanich 7:22	stood 224:13	stronger 53:9	12 250:5	supervising
8:7,13,14,24	stop 91:12,14,	54:12 165:9	subpoenaed	23:7 26:20
9:4,19 10:1	15,19 92:6,10,	169:18	236:22 237:11	33:18 42:7
14:21 15:2,4,7,	14,15,16,20,24	struck 209:9,	240:15 243:25	supervision
14,17 16:1,16	93:1,6,14,25	22 210:8 212:1,	subpoenaing	272:23
18:13 19:17	94:4,8,9,13	13	217:24 237:4	supervisor
20:23 21:15	95:7,10,15	stuck 76:19	238:25	12:21,22 20:12
29:1,25 30:17	105:3 112:17,	stuff 26:7 59:23	subsequent	35:12 38:10
36:4,13 58:8	19,22 113:3,22,	83:24 85:24	213:2 216:13,	40:18 214:21
63:20,23 64:3,	23 114:1 116:3	87:19,23 90:17	14 217:17	supp 12:23
13 67:10,13,15,	117:2,7,9,11,	100:1 184:1	subsequently	16:21 17:7,20
18 79:16 84:17	13,25 118:2,6,	262:15	216:15 246:10	96:22 97:3,5,
91:7 96:2	15,17,21 119:2,	style 51:13	substantiated	24,25 151:6
101:18 102:1	11,16,22	subject 33:20	137:20	171:13 172:4
107:6 108:15	120:20,23	34:7 98:11	suggest 42:20	227:4 228:15,
110:6 113:12,	122:25 124:22	105:8 124:1	197:24 280:14,	19,22,24 229:6,
14 125:1,20	126:1,3	192:9 251:6,17	17	13,15 261:3,19,
126:16 143:3,5	stopped 92:5	283:5	suggested	20
148:25 150:20	114:7 115:17	subjected 27:9	163:1	supplemental
152:2 158:4	121:21	subjects	suggesting	271:1
159:21 160:11	stops 85:21	199:22	49:12 282:12	supplementar
164:23 166:21	87:22 93:3	submission	suggestive	y 12:20 18:9
171:6,20	storage 26:5	214:14 231:13	42:11,12 48:20,	169:21 170:2
172:17 173:1,	straight 176:23	submit 121:25	21 50:16 51:4	supplied
13 174:9,16	strain 156:11	123:16 124:9	55:15 56:13	206:2,24
178:16 179:1	stranger	218:15 219:7,	166:9 167:22	supply 244:7,
181:14 182:12	40:22,23,24	13,14 220:5	187:13,19	14 262:19,20
185:12,18	41:4,21,25	submitted	suggests	supposed
186:19 187:22	strangers	20:17,18	149:5	74:25 75:2
195:22 201:4,	40:14,20	119:16 122:17	suit 50:21	242:4 252:20
14 202:3 203:1	street 7:6 35:6	133:14,15	suits 169:18	suppressed
215:7 221:17	56:7 92:5 102:3	134:21 136:4,	summary	31:2
222:3 225:1	114:7,13	14 138:6,9	201:23 215:4	supps 233:23
230:15 234:18	121:21 204:1,	189:14,16	234:21 235:10	surgery
236:8 239:1,5,	18 217:24	214:23 215:11	238:11	220:12,14,15
7,11 249:17	218:12	219:9 264:18,	summoned	231:14,18
252:6,13	strike 27:3	24 272:2	207:13,14	
254:21 255:14	35:16,24 42:6	273:17		
256:6 257:7,18				
258:1 261:11				
263:3 264:15				
267:4 268:3				
273:9 276:16				

surmise 83:6	14,17,19,22	261:22 263:16	156:13 163:1	60:15
surprised	275:2,9,12	264:25 267:12	183:22 191:9,	ten 10:12 34:1
192:17	276:14 277:20	268:15 273:12	19 198:21	105:21 149:10
surrender	Svec's 269:25	276:21 278:15	talking 28:10	154:14 177:17
216:8	276:22	279:18 280:13,	34:22 37:17,20	259:3
suspect 24:21	Swaminathan	23 281:9,20,25	45:15,24 58:20	tenaciously
25:1 28:8 31:7	7:19,20 8:3,12	282:4,7,17	65:19 100:2	213:12
37:15 41:9	9:1,5,14 10:2	283:13 284:14,	117:8 146:1	tentative 47:1,
42:14 43:5,10,	15:8 16:3,19	22 285:2,3,5,7	150:22 153:10,	6,10,14 191:21,
13 49:16 51:13,	18:16 19:23	swear 9:8	25 162:19	24 192:13
14 52:1,8,15,25	21:2,25 29:5	swung 224:18	176:14 216:23	193:6
53:3,15,16	30:10 33:16	system 37:9	219:24 255:4	term 191:22
54:16,19,25	36:8,22 58:13	58:17 59:9	258:7 267:16	terminology
55:7,9,22,24,25	63:16,22,24	61:21 62:2,8,9,	tall 45:10,11	102:2 103:1
57:2 79:20	64:6,9,14 67:7,	12,19 63:12	49:5,7 52:1	104:12
91:17 95:4,6,20	12,14,16,19	64:7 73:18,21	tape 56:20	terms 18:12
103:20 111:13	76:11,23 77:1	77:19,23 78:17	task 244:2	24:3 29:6 34:5
125:18,23	80:17 84:12,18	79:13 85:4,19	tattoo 56:16	116:5 167:21
126:5 148:22,	91:1,8 95:25	86:1,10,12,13,	57:8	Terry 68:8,9,10
24 153:1 163:5	96:3 101:24	14 87:7,8,13	taught 36:1	92:4,16 93:25
187:20	102:22 108:5	88:23 89:23	Taylorville	94:8,14 112:1,8
suspects 29:7	109:1 110:25	90:19 93:8,16	101:8	113:4 116:11
36:3 40:13	113:5,9,13,16	117:14,25	team 272:24	117:1,3 124:24
suspend	125:13 126:7,9,	118:6,10,16	276:6 282:10	142:1,2,9,11
244:23	18,24 127:8	119:2,22,23	teams 59:19	143:12 147:4
suspension	131:5,9 135:14,	120:25 122:5,8,	138:24	155:11 165:15,
205:2,20 206:6	19 143:19	22 123:7,16,17	teardrop 57:1,	22 188:11
207:1,7,11,14	149:4 151:1	129:17 138:6	3,4	testified
213:20,23	152:10 158:8	146:1,11,12	teardrops	184:22
216:3,5	159:22 160:14	159:3	56:24 57:5	testify 72:20
suspicious	165:13 166:12,	T	technically	testimony 9:9
38:25 277:4	22 167:10,15	tact 59:18	60:2 104:14	13:6,14 14:22
sustained	169:25 171:11	93:24	technician 7:4	15:15 108:10,
202:24 203:5,	172:7,19 173:4,	takes 87:2	109:6 190:4	16 125:21
10,16 205:23	19 174:11,18	taking 10:19	technology	140:20,23
206:3,12,25	178:20 179:4	12:7,10,14 28:4	26:7	152:3 157:13
207:3,4,5,17	182:2 183:5	158:25 244:10	telephone	178:16 181:15
208:21 209:4,	185:14,16	talk 10:22	260:1 264:10	185:13,15,19
13,14 213:17	186:5 187:14	25:14 31:9	telling 119:13	187:16 206:23
214:3,24	188:1 189:7	57:19 91:17	120:18 139:17	210:13 222:4
215:10 217:1,3,	193:10,13	93:22 94:1	149:14 181:4,5	224:23 225:2
7	195:10,17,23	115:11,17	185:22 186:16	226:20 237:18
sustaining	201:7,11,20	124:6 125:12	263:4	238:10,13
215:21	202:5,7,10	139:15 237:17,	tells 77:10	241:12 243:7
Svec 266:8,9,	203:4 208:3	18	93:19 122:12	255:15 264:16
10,11,17,19,22	215:23 221:24	talked 15:19	temporarily	276:11,17
267:2,24 268:2,	222:20 225:11	30:23 58:19		testing 27:10,
7,8,17,19,22	230:18 234:14,	62:5 130:8		11 72:21
272:24 273:3,5,	19,20 236:10,	133:11 143:16		That'd 196:8
8,19,22 274:11,	11 239:12			
	245:16 249:19			
	250:3 252:8			
	253:1 255:6,24			
	256:10 257:12,			
	19 258:3			

there'd 87:14	Thursday	181:11 183:16	14 135:21	259:25 260:2
thing 10:16	158:12	186:21 187:18,	139:25 140:9	total 13:20
19:2 23:19	tickets 205:24	20 190:9,15	189:12	41:25 277:22
25:22 31:25	tight 175:2,5	191:14 199:23	told 12:13	totality 52:21
35:9 38:19 48:6	176:15	202:8 205:17	93:24 97:4	totally 73:4
49:25 51:4,8	time 7:7 9:22,	206:11,21	140:16 218:5,	90:6 277:9
52:6 56:23	23,25 10:4,22	207:10,11	13,22,25 219:6,	tough 56:18
66:18 72:12	13:22 18:23	208:10 209:15	12,18,21 221:3,	town 115:18
85:13 86:5	19:8 20:3,6,11	216:6,8,9,11	5 222:8,13	tradition 89:8
99:23 111:24	21:23 22:1,4,14	217:17 218:3,5,	225:22 226:12,	211:18
112:2 125:3	27:17 28:22	22 219:2,23	23 228:4 229:9,	traffic 92:5
132:15 133:19	29:24 30:9,15,	220:9,17 224:6	11 233:2,10,15,	115:8
134:13 135:10,	21 31:10 32:8	228:16 231:17	21 234:4,9	trained 35:25
11 145:13	33:17,21 34:7,	232:22,23	237:14 240:23	40:10,17 42:5
183:17 219:14	11 35:11,13,19,	233:8,14,16	242:12 246:22	training 35:11,
240:9 242:13	25 40:9 41:23	234:13 235:12	255:10,25	14,17,21 36:9,
244:2 248:11	42:22 45:24	238:21 242:21	260:22 261:2	16,20,25 37:4,
263:13 279:8	49:12 52:12,20	243:17 252:23,	262:25 263:5,7	7,17 38:4
things 10:21	53:19,21 54:3,	25 253:24	267:17 268:19,	transcribed
14:17 27:3,23	15,18 58:15,25	254:6,23	25 269:3,4,16,	261:21
28:16,23 29:8	59:4,7 61:7	256:19,20	20 270:23	transcript
32:16 33:23	62:24 74:8,11	257:9,15	271:12 272:5,	214:16 215:13
35:9 37:7,23	76:4 78:22	258:17 264:19,	10,14 273:22	285:1,9
40:5 48:22	79:24 83:25	22 265:7,8,15,	tolling 100:18	transcripts
49:20 51:24	85:5,25 87:2,9	21,23,24,25	tonight 61:13	13:5
76:5 78:20 82:3	98:15 102:7	266:2,4 269:2	Tony 136:6	transferred
90:19 100:22	105:4,5,20	271:22 272:12,	tool 115:23	22:2 225:19
108:19 109:14,	106:9 107:8,12	20 273:15,17	tools 59:1	transition
22,23,24	108:18 109:2,4,	283:20	top 64:19 69:4	118:14 122:15
125:23 137:21	23 117:6,24	times 10:13,25	75:4 77:12,25	transitioning
169:17 183:1	118:5,12,14	14:6,9 15:19	78:1,23 83:8	89:8 117:7,10
222:10 232:24	119:2,14 120:3,	26:10,17 27:14	91:12 92:13	120:19
241:13 243:15	10,22 121:1	30:13 31:4	113:10 117:19	trauma 32:6
thinking 42:16,	122:4,15 123:2	34:15 39:14,16	131:24 132:22	traumatized
18	129:12 136:21	45:10 46:16	133:3,5 134:19,	32:3,12
third-to-last	137:6,13,15	56:8 60:24	23 135:2	treated 125:17
267:21	138:2 139:6,11	61:17 66:21	166:25 259:2	tree 180:8,9
thought 24:22	141:9 142:12,	75:1 103:11	Torres 257:22	trespass
202:14 219:23	15 143:17,22	108:21 130:16	258:4,7,10,19,	142:18 144:10
234:2,8 258:14	147:1 148:22	133:21 134:11	22 259:2,5,6,	145:3,16
thousand	150:19 152:12	151:4,8,15,18	11,22 260:1,4,	trial 13:5,11
48:22	153:2 154:2,6,	152:17 158:6,	8,10,11,22,24	212:9 214:15
thousands	10,20 155:10,	15 159:2	261:24,25	Tribune 238:23
62:11,18	15 157:19	182:20 198:21	262:7,25 263:2,	279:16,19
threw 28:13	158:10,14,19,	today 7:4,7,9	5,7,18 264:5	
225:13 235:9	20,25 160:9	10:9 12:5 13:21	265:6,8,18,25	
throat 220:15	162:5,14	16:7,8,9 52:19	270:14 271:5,	
throw 50:22	165:17 169:11,	107:8,9 122:11	20 272:18	
74:23 105:14	12 172:15	139:14 148:1,7	Torres' 257:24	
	173:12,22	266:4 275:8	Torres's	
	174:1,7,15	285:1		
	175:12,18,22	today's 12:19		
	176:13 177:8,	13:1,18 14:19		
	24 180:11	15:11 16:5,10,		

trier 32:21	263:14 266:14	uncertainty 192:25	253:3 257:24 258:13 283:22	vehicle 91:16 206:1
trigger 116:5	typed 96:13,20	unchanged 215:3	units 27:5	veracity 39:10
trouble 148:5	222:22 225:17 228:19,22	uncle 22:10	unknown 7:12 141:4,14,18 149:15 171:3,9 172:5	verbal 11:12
troubles 143:2	261:2,3,4,13, 14,16	undamaged 261:13	unlocked 211:4	verbally 44:17
truck 161:12	types 27:11 67:21 79:12	underlying 28:22	unnecessary 256:3,16	verbiage 95:1 97:2 179:19 215:19
true 43:15 173:17 176:25 177:2 206:4 210:11 246:19 247:20 250:23, 24 271:15,17 272:19	typewriter 73:11	undersigned 214:23	unnecessary.' 255:11	Vergara 205:18
trust 37:20	typewritten 96:25	understand 11:15 12:4,9,15 51:17 55:21 58:25 130:4 134:17 187:15 202:1 204:10 217:5	unprejudiced 43:2	verified 218:5
truth 9:9,10	typical 136:23	understanding 21:3 27:4 30:11,14 33:20 36:24 43:7 54:24 69:11 70:18,21 78:4 86:9 88:14 111:11 118:18 122:21 147:18 177:10 178:17 201:22 202:3 233:24 250:6	unquote 215:3	verify 145:14
truthfully 12:5, 9,16	typically 8:20 74:7,10 103:17 167:25 168:20 199:5	understood 10:23 11:5,10, 19 204:23 239:14	unreliability 38:6	versa 52:16
Tucker 211:12 212:8 215:18	typing 222:18	unduly 56:13	unreliable 36:11	versed 90:17
Tucker's 209:8 211:23	<hr/> U <hr/>	unidentified 209:10,22	unresolved 24:5,20	version 77:19 86:2 166:16,18 167:4,7 168:16, 18,22 207:22, 24,25 208:8 215:5 261:8
Tuesday 11:3 30:23 58:19 96:19 97:4 130:9 137:8 158:11	U.S. 218:11 219:15 268:18 271:25	uniform 99:17	unsolved 25:9	versions 167:12
turn 45:5 134:6 135:3 141:2,24 234:21 256:23 257:16 259:1 269:21	UCR 99:16,25 137:16	unique 104:18	untimely 245:7,8	versus 7:10 25:10 40:13,20
turn-in 204:4	UEW 101:6 110:12	unit 20:7,12,22 22:2,7 23:6,13, 15,17 24:2,3,13 25:13 27:2 28:21 29:9 30:12 75:1 87:14 98:16,19 133:9 196:7	unusable 224:25	vice 52:16
turned 204:6, 16,20,21 212:7 215:22,25	Uh-huh 174:21 181:8	unified 137:16	unusual 96:15, 24 159:18 265:17	victim 43:12 91:17 95:11,14, 16 98:12 102:8 144:11,14 145:14 206:14
turns 277:19	uh-huhs 11:12	uniquely 104:18	updated 73:15 87:10 122:5	victims 257:24 258:13,15,17
tutelage 138:18	ultimate 51:21	uniquely 104:18	upper 132:17	video 7:3
TV 37:8	ultimately 213:13 225:13 242:6	uniquely 104:18	usual 191:22	videoconferen ce 7:8
twins 178:11	unable 269:10	uniquely 104:18	utilize 90:25	view 40:24 44:3 46:1 152:24 161:13 177:21 181:10
type 39:19 49:4,15 73:11, 22 79:13 85:8 96:19 144:3 154:22 199:9, 14 225:21 240:9 261:7	unanimous 207:3 216:19	uniquely 104:18	utilized 60:4 100:22 223:23 225:20	viewed 42:9 139:2 182:10 192:1,8
	unanimously 207:17 216:25	uniquely 104:18	<hr/> V <hr/>	viewing 151:25 173:10 184:10
	unbeknownst 218:1	uniquely 104:18	validity 104:3	
	unbiased 43:2	uniquely 104:18	veering 107:10	
	uncertain 46:14 55:17	uniquely 104:18		

violation 92:17 203:22,24 205:9 208:22 209:5 214:25	wanted 19:2 22:6 23:2,4 26:22,24 60:14 62:22 66:18 71:25 72:13 76:8 91:17,21, 25 92:24 94:18, 24 96:23 107:19 113:3 116:6 117:15, 16 124:1 125:18,23 128:8 129:14, 19 142:20 170:6,10 233:4, 25 234:7	weed 115:6 week 32:14 74:19 133:12 158:12 265:12 weeks 53:1 74:20 230:23 weigh 39:3,12 weight 41:18 46:3 57:1 104:4 168:3,9 183:16 well-versed 139:2 West 7:6 white 49:9 59:6 61:19,20 62:21 187:6 198:15 199:13 Whites 49:22 who'd 62:7 whoever's 134:8 wholeheartedl y 213:16 wide 211:9 wife 22:10 27:19,21 154:12 Williams 82:16 Willie 128:15 192:10 193:9 willingly 121:22 wishes 128:14 witness's 8:20 34:5 39:20 witnessed 266:22 witnesses 24:22 29:7 36:3,10 42:9 44:2 46:13 51:12 52:24 55:8,23 61:14 95:11 104:22, 23 148:21,23	150:15,18 154:5 177:21 182:10,16 186:16 223:25 225:23 228:4 231:21 267:25 268:10 273:25 276:14,19 Wojcik 7:9,12 8:25 9:3,6,15, 17 10:3 58:14 64:16 77:3 126:25 131:10 135:20 166:15 167:2 195:24 201:12 212:21 213:9,11,19 227:8 234:24 245:23 248:14 249:7 250:4,20, 22 251:4 257:24 260:1,3, 22 261:24 265:6,17 268:19 270:16 271:12 272:12 273:1 278:25 Wojcik's 257:2 270:10 272:23 275:20 276:5 278:19,24 282:20 woman 32:2 48:16 Woodridge 215:15 word 47:6 88:13 90:9 106:16 111:8, 13 113:24 133:5 181:6 223:7 240:14 283:4,8 wording 271:18 words 35:24 45:16,17,19 47:5,21 57:10 92:3 117:15 129:8 149:22 152:22 210:7 215:9	work 22:6 23:2, 17,25 24:5 26:10 61:25 74:5 138:25 216:5,9 221:6 258:18 worked 20:11, 15 23:4,23 24:6,19 25:6 29:15 75:3 258:12,19 working 19:15 20:6 22:13 23:13 24:7,9,11 29:19 30:2 71:23 72:14 74:12 92:22 98:14,15 135:9 203:13 219:6 266:11 world 36:24 37:1,24 154:3, 19,25 162:8 worried 211:20 worth 216:6,8, 10,12 would've 19:21,25 20:14 23:9,10,12 62:10 75:16,17 86:11 88:15 102:15 103:13, 16 107:24 111:9 136:23 139:7 143:9,10, 16 151:24 155:7 157:13, 15 158:1 173:25 175:17 193:3 200:16, 17 204:17 210:24 211:7 224:13 226:25 227:5 228:23 229:9 240:3 241:15 255:2 259:10 283:9, 11 wrecked 233:11 write 10:23 47:18 48:17
W				
W-O-J-C-I-K 9:18 Wade 127:22 128:4,9,14 129:1,9 188:25 waffling 40:1 wait 61:9 62:2 64:1 65:15 74:5 81:12 156:8,10 219:3 263:21 waited 212:4 245:5 248:7 waiting 16:12 65:20 154:16 waits 245:8 walk 33:4 211:19 walked 211:12 219:10 224:15 266:19 Walker 188:12 walking 114:13 wall 196:25	warrant 92:1 93:5,10 95:9,12 117:16 142:21 144:20 145:16, 20 warrants 87:22 91:18 93:4 114:10 wash 28:14 wasting 180:11 watch 71:25 74:1,6 221:6 262:11,12 275:20 276:6 ways 22:16 25:1,2,24 48:23 49:1 weapon 204:1, 4,6,16,21 wear 49:19 51:15 56:20 wearing 49:14, 16,17,19 50:19, 21 52:8 57:7 104:24 105:11 website 147:12 148:9 163:10 186:7 Wednesday 158:11			

89:11 135:2
 178:6 179:3
 185:9 255:12

writing 135:1
 240:23 242:9,
 12,18 245:4

written 61:8
 69:20 75:17,19
 94:23 96:9
 112:14 133:4
 134:18,19
 140:25 178:18
 227:10 256:11,
 22 263:11
 277:9

wrong 138:22
 176:11,19
 263:2 275:9

wrote 179:5,7
 226:11 229:23
 250:18 256:13
 258:22 263:6
 267:3 274:16

Y

year 13:24
 19:12 153:17
 200:20 203:12
 265:19,22,23
 271:10,21

years 13:21,25
 15:20 22:11
 24:17,23 28:5
 31:8,13,24
 32:19 33:3 34:1
 49:22 52:19
 73:2 95:12
 140:14,16
 149:11,23
 150:17 154:13,
 14 162:19
 169:11 172:15,
 24 173:11
 174:1,15
 175:12 176:14
 177:24 178:23
 181:11 186:9
 187:18,20
 200:3,10,16,23
 210:19 213:10,
 13 274:8

yellow 49:14,
 16 51:13,15,16
 104:24 197:20

yells 44:10

yes-no 12:1

yesterday
 38:15 45:1
 90:20 140:12

young 30:24
 34:15 184:3

younger 30:25
 172:24

Z

Z-E-F-K- 209:9

Zedfiles
 211:24

Zefkiles 209:9,
 22 210:4,9,15
 211:24 212:22

Zoom 7:21,23
 8:9 16:13